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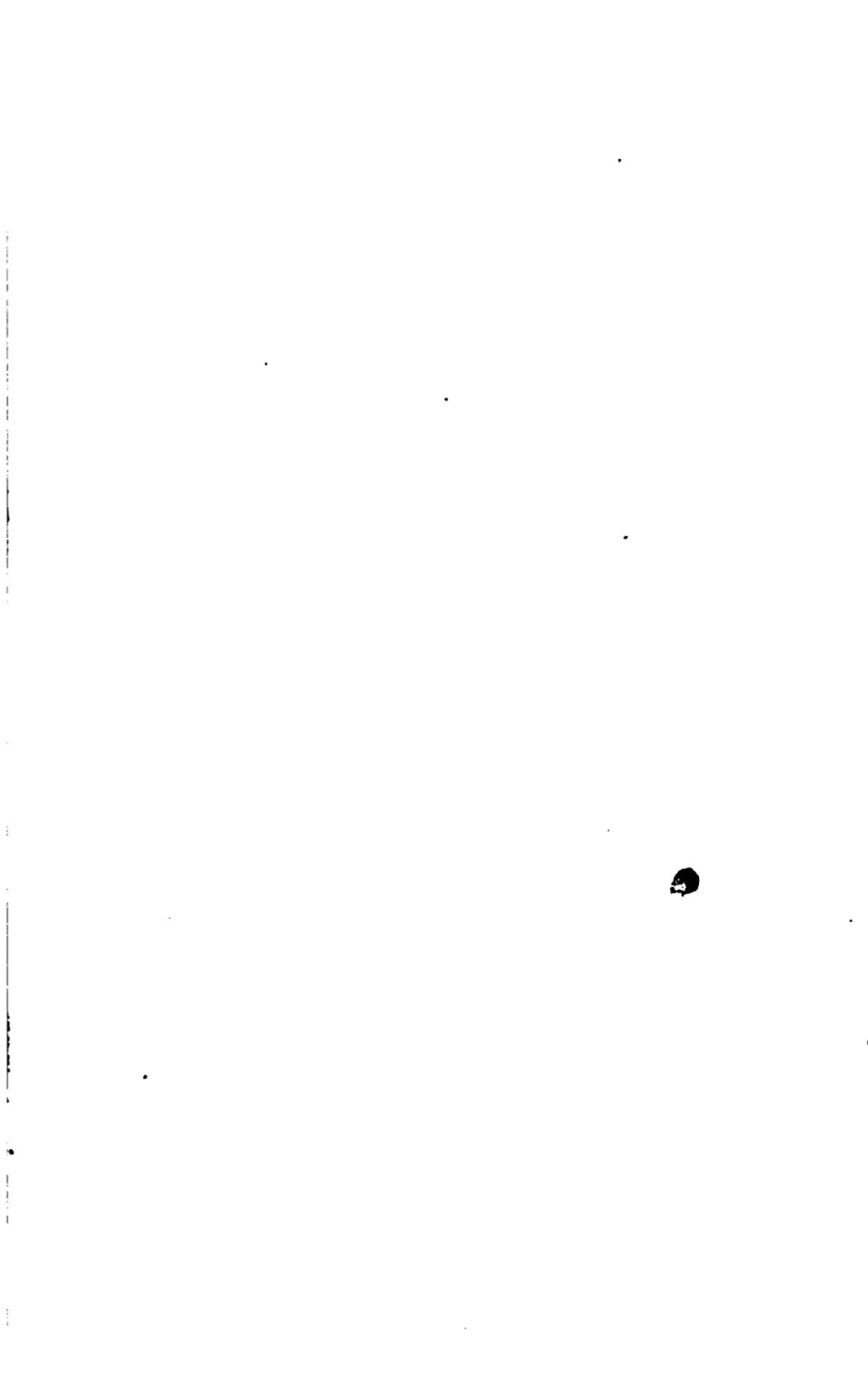
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THE  
**SLAVERY**  
OF THE  
**BRITISH WEST INDIA COLONIES**  
**DELINEATED.**

John Wesley  
Methodist Church  
London

LONDON:  
Printed by A. & R. Spottiswoode,  
New-Street-Square.

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THE

# SLAVERY

OF THE

BRITISH WEST INDIA COLONIES

DELINEATED,

AS IT EXISTS

*BOTH IN LAW AND PRACTICE,*

AND COMPARED WITH

THE SLAVERY OF OTHER COUNTRIES, ANTIENT  
AND MODERN.

---

BY JAMES STEPHEN, Esq.

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VOL. I.

BEING A DELINEATION OF THE STATE IN POINT OF LAW.

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LONDON:

PRINTED FOR JOSEPH BUTTERWORTH AND SON,  
43. FLEET-STREET.

1824.

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AT a Meeting of the Committee of the LONDON  
SOCIETY for mitigating and gradually abolishing  
SLAVERY throughout the British Dominions, on the  
19th of February, 1823,

WILLIAM SMITH, Esq. M.P. in the Chair.

It was resolved,

That this Committee are of opinion that an exposition of the Law of Slavery, as it exists in the British West India Islands, would essentially promote the object of enlightening the public mind as to the true condition of the slaves; and having learnt that Mr. Stephen had, some time since, nearly prepared for publication a work on that subject, which, from his long residence in the West Indies, and his practice as a lawyer there, he is known to be peculiarly qualified to explain, it is their earnest wish that he would resume his purpose, and carry it into effect without delay.

That the Chairman be requested to convey to Mr. Stephen, in the name of the Committee, the strong desire they feel that he would, as speedily as possible, complete and publish his work.

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KENSINGTON GORE,  
Feb. 20. 1829.

MY DEAR SIR,

I FEEL myself much honoured by the Resolutions you have transmitted to me on behalf of the London Society for mitigating and gradually abolishing Slavery throughout the British dominions.

The Society was not misinformed as to my having made great progress in such a work as the Resolutions describe. It was intended to embrace not only the law but the practice of Slavery ; and in respect of the former, it is true that I had nearly prepared it for publication long ago.

Causes, which it is needless and would be tedious fully to state, have suspended my purpose, and might have for ever prevented its effectual resumption, had not the most powerful of them been removed by the formation of Societies like yours. I had, let me confess, begun to despair that the attention of the public could be again sufficiently awakened to the sufferings, and the wrongs, of that most hapless and most injured portion of the human race, the Slaves of our West India Colonies, to make my labours useful to them ; while, from various circumstances, my feeble efforts in their favour had become extremely onerous and painful to myself.

But when a Society respectable as yours, and others of the same character, have been formed, and are forming, in different parts of the kingdom, for the purpose of mitigating and gradually terminating

that odious oppression which dishonours the British and the Christian name, and when I already find among their members men like yourself, whose characters are a pledge for resolute perseverance in that generous undertaking, my hopes revive ; and I cannot hesitate to renew, with as much energy as my age may yet afford, my labours in that sacred cause.

No small part of my intended work, comprising the most important views of Slavery in point of law, with many illustrative remarks, was printed, though unpublished, prior to the Abolition of the Slave Trade, to promote which measure was its main original object ; but subsequent events, and considerations founded upon them, will now make many alterations, and additions necessary or proper. I will, therefore reprint that portion of the work as speedily as I can possibly find time for its revision ; and that I may contribute the more early, in some degree, to our practical objects, it shall be published or circulated in parts, as soon as I obtain them from the press.

I am, my dear Sir,

With great esteem and regard,

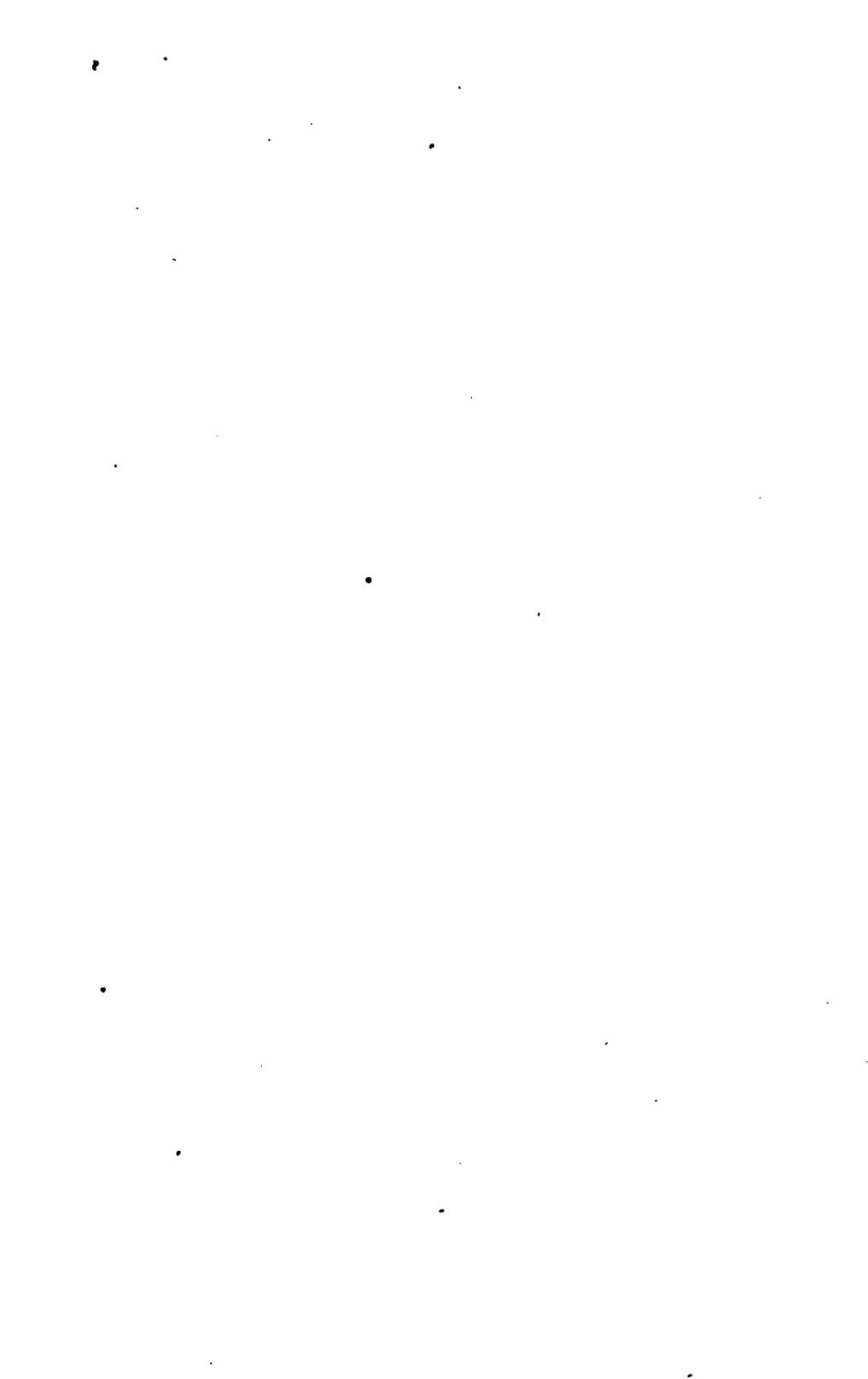
Very sincerely yours,

JAMES STEPHEN.

*To William Smith, Esq. M.P.*

*Chairman of the London Society*

*For mitigating and gradually abolishing Slavery.*



## P R E F A C E.

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*Jan. 19. 1824.*

WHEN the first four or five sheets of this work were put into the hands of a few eminent political characters early last year, the preceding correspondence was thought a sufficient preface. But subsequent events have made it necessary, perhaps, to explain why the present publication has been so long delayed ; and also why at this period I deem it an indispensable duty to submit to the public the first of the two grand divisions of my promised work, without waiting longer for its completion.

The delay will be thought to demand an apology only by the friends of the great public cause which I wish to serve, and from *them* I may reasonably hope not only candour, but indulgence. I will therefore content myself with assuring them that I have not been idle, but have prosecuted this undertaking with all the assiduity that my other duties in life would permit ; though the delay has certainly much exceeded my own previous estimate.

But opponents of the colonial party, will complain, perhaps, not that I am tardy, but premature. They may allege that a work undertaken in February last, might without impropriety, have been laid aside.

or suspended, after the debate of May 15th, on Mr. Buxton's motion, when his Majesty's government and the House of Commons became pledged for important reformations, both in the law and practice of slavery, and for the progressive termination even of the state itself. It may be pretended, that after this, an exposure in detail of the oppressive slave codes of the colonies, and their cruel effects, was superfluous as well as invidious; and likely to be productive of evil, rather than good.

If my work had been published some months ago, when no account of the reception which the resolutions of May, and the consequent official instructions of the executive government, have met with in the West Indies, had arrived, this objection, though unsound, would have been specious; and my defence would have rested on views, in which, however just, every reader might not have been prepared to concur. I should have had to demonstrate the high probability or certainty of what I foresaw and publicly foretold, as to the conduct we had to expect from the sugar colonies; and to shew the hopelessness of any effectual melioration of slavery, and still more of its gradual termination, by acts of their local legislatures.

But the defence of my publication at this period, demands no such arguments. The non-compliance of many, if not all the assemblies, is now matter, not of anticipation, but experience; for no man, I presume, can be silly enough to suppose that the qualified and vague professions of a purpose partially compliant with which some of them appear to have concluded their angry and violent manifestoes, will lead to measures really conformable to the spirit of the parliamentary resolutions, and such as shall be both efficient in their

nature, and satisfactory in their extent. While they indignantly reject almost every principle, and deny almost every fact, on which the resolutions were founded, they cannot be expected to pass laws virtually recognizing, and resting upon, those very principles and facts. Upon their own representations, indeed, it would be downright insanity and suicide in them to adopt in practice some of the best and most essential of the measures specifically recommended by the servants of the crown. It would be not only, as they represent, to annihilate their property, but to involve themselves in all the horrors of a general servile insurrection.

Besides, if any degree of compliance had been really designed, such as parliament, consistently with the spirit of its own resolutions, could rest satisfied with, to what end the extreme and unprecedented efforts by which they are endeavouring to turn the tide of public opinion in this country, and to produce a revulsion of feeling against the very measures they were preparing to adopt? Why also should they persecute with public invectives and calumnies, all those to whom they attribute the parliamentary resolutions? If practical compliance had been designed, a conciliatory, rather than offensive tone, would have been assumed. They would at least have refrained from raising an uproar in every colony, and publishing inflammatory resolutions on subjects, the discussion of which, even at this distance, they object to, as pregnant with the most formidable interior dangers to themselves. They would not needlessly have flown in the face of the government, and the parliament itself, while receiving the most important obligations from the mother

country, at the heavy cost of the empire at large. They might have abstained perhaps from their insolent invectives against that much respected and able statesman, who has for so many years presided over the colonies in a way to deserve their gratitude, and who has always treated them only with too much complaisance, merely for performing in this instance his official duty to the crown. At least they would not have published manifestoes bordering upon sedition, or treason; and used the audacious, though impotent and ridiculous threat, of casting off their allegiance.

Assuming, however, that the concurrence of the colonies in the beneficent plan of the mother country is not to be hoped for, some further remarks may be useful with the friends of conciliation and peace (a description in which every wise and good man is comprised); for rashness and intemperance on the one side, would be no excuse for the same faults on the other; and recrimination, though it may silence the adversary, cannot satisfy the judge. If, therefore, the continuation of public controversy on these subjects could be declined by the friends of the unfortunate negroes, with safety to their cause, such, it may be thought, notwithstanding the example of their opponents, would be their best line of conduct. I will proceed to shew, therefore, that such forbearance is not in our choice; and that silence under present circumstances, might be fatal to those hopes which the parliamentary resolutions have excited,

But have not public discussions in England on these subjects, it may be asked, produced insurrections in the West Indies?

Before I answer the question, let us assume that such is the fact, and examine calmly the justice of those consequences for which its asserters contend. Are seven hundred thousand human beings, subjects of Great Britain, with their future offspring, to be held for ever in such a dreadful and destructive state as this work describes, because their deliverance from it may not be unattended with some portion of evil? Then let the physician and the surgeon abjure their professions; for what cure was ever effected of an inveterate and dangerous malady, without some degree of temporary evil to the patient?

That without public discussion in this country, slavery will never be abolished, or effectually alleviated, no fair man who attends to the admitted facts of the case will dispute. The colonists themselves for the most part virtually admit it. They boast indeed of having already meliorated greatly the condition of their slaves, by laws which the reader of the following work will learn how to appreciate; but whatever be the value of their meliorating acts, to discussions in this country they are confessedly to be ascribed; or at least to recommendations from parliament and the crown, which, without such discussions, would not have been obtained.

The assemblies have not even affected in general to represent their boasted reforms as spontaneous, or to conceal that they were made in compliance with the sense of parliament, and of the executive government: some of the acts themselves recite that such were the motives of their authors.

Let me add, that if these ostensible improvements were really carried into practice, or had a tenth part of the value which the colonial apologists attribute to them, they would be cheaply purchased at the ex-

pence of greater temporary evils by far than the insurrections at Demerara and Barbadoes.

Does any man seriously expect, that if public discussion in this country were now to be abandoned, those old laws would be made effectual, and improvements of far greater importance introduced by the free choice of colonial legislators? If so, let him attend to the lessons of experience.

The meliorating laws, with a trivial exception or two, are of three different periods, having intervals of several years between each of them, during which in every colony the work was at a stand, and represented by their assemblies as already brought to perfection.

The first of these æras followed the earliest discussions on the slave trade; and by 1792, every thing was affirmed to have been done that humanity required, or the safety of the islands could possibly admit. \*

From this period during five years no further progress was made or pretended. In some of the islands their meliorating acts, which had been temporary, were renewed. But in others, as in Dominica and Grenada, they were suffered to expire; and remained wholly extinct, till new discussions, and consequent enquiries by the crown, led to their resuscitation.

In 1797, the *second* æra, these laws having been found, and proved, to be not only inadequate, but for the most part frivolous and useless, renewed discussions in this country took place; and they led to new parliamentary interference, in the mode of an address to the crown, and consequent official recommendations from the executive government to

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\* See page 107, &c.

the colonial legislatures. The recommendations, in this instance, were powerfully supported by a circular communication from the West Indian Committee and agents, sanctioned by the very respectable name of Mr. Ellis, on whose motion the resolutions of the House of Commons had been framed; and the efficacious argument was used, that the slave trade would most probably be abolished, if the slave laws were not reformed.\*

New meliorating acts were in consequence passed in most of the islands; but such as were not less evasive and impotent than the former; and which are now admitted to have been, from the time of their promulgation, perfectly inoperative and fruitless in all their most specious provisions. †

Again, the humanity of the assemblies, however, took a long repose. Much was expected from them in consequence of the abolition of the slave trade; and much would have probably been done, if the government had given sure effect to that measure, by a general and effectual slave registration. But as public discussion here was suspended, and parliament was silent, the assemblies remained supine. Except a few trivial amendments, in new editions of the unexecuted meliorating acts of one or two islands, nothing was done till the third great æra of these laws, that of 1816. Then, the moving power of public discussion being again applied by Mr. Wilberforce's Register Bill, parliament again addressed the crown; new solicitations were transmitted by the executive government; and the assemblies went again

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\* See the resolutions and letters in the papers printed by order of the House of Commons of June 8. 1804. p. 58. to 60.

† See pages 99, 100. 167. to 169, &c.

to work ; but, I am sorry to say, quite in their former spirit : to elude an effectual slave registration by parliament, was now the same animating object that to avert the abolition had been before ; and that object was attained.

That the *third* crop of meliorating laws which ensued was as useless as either of the former, will clearly appear in the following work ; and in a review of the Register Acts printed by the African Institution. But I need not now prove that all these ostensible reformations, taken together, were in most important and essential points inadequate ; because the resolutions of May last proceeded on the assumption of that truth ; and it was not controverted in the debate, I believe, by any of the respectable colonists who took part in it.

From this brief review of the past, what have we rationally to expect at the *fourth* æra of professed reformation, which is now, it is said, in some of the colonies, about to commence ? Others may entertain or profess what hopes they please. They may suppose, perhaps, that the assemblies are not in earnest in their loud and vehement indignation against the proposed measures and their authors ; but, for my part, though I should forget the testimony of experience, I know too well the composition and character of those bodies ever to expect from them any thing better than such temporizing expedients, to avert the interposition of parliament, as have hitherto been successfully employed. Indeed, as to the most important reformations of the fatal existing system, and without which depopulation or a renewed slave trade must be the no distant lot of our sugar colonies, I have always held that the assemblies, if they had the *will*, have not the *power* to make them.

I am sure, at least, that such is the case in all our old islands ; except, perhaps, Jamaica ; and I do not know or believe that it is otherwise even there. \*

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\* That the assemblies possess not the *power* of effectual reformation, is a truth which I do not expect my readers in general will be prepared fully to understand and admit, till I shall have laid before them such statistical information as properly belongs to the second division of this work. But I will here subjoin a few remarks, rather serving to shew my meaning in the proposition, than to prove its truth.

The assemblies, in the smaller islands at least, are generally composed of men dependent for their subsistence on the system proposed to be reformed ; and to whose hopes in life the immediate correction of it would be fatal. They are, besides, too intimately connected with, and dependent on, the small free communities they represent, to oppose themselves in earnest to their general voice ; or to venture on measures so offensive to their white brethren, as all effectual laws would be, the objects of which avowedly were to raise the negroes in the social scale, and by preparing a future abolition of slavery itself, to reduce the proud and gainful ascendancy of the privileged class. Meliorating acts, incapable of being enforced, and known to be framed for the sole purpose of averting parliamentary interference, are easily borne with ; but the man who, in one of those petty assemblies, should attempt to realize the benevolent ideas and plans of the British government, would be a hardy philanthropist indeed. If he did not escape, like the late Barbadoes missionary, by flight, he would probably have to feed the flames of his own mansion kindled by a popular torch.

The late destruction of the Methodist chapel in Barbadoes, is too plain an illustration of my meaning, to be here passed unnoticed. It was an outrage perpetrated openly in the face of the sun ; and, as has been stated without contradiction, continued during two successive days ; and this in the chief town, the seat of the local government, which durst not interpose. I say durst not, because it is due to the governor to presume that he would have upheld the authority of the laws, and the respect due to himself as His Majesty's representative, but for the fear of greater mischief. He had no doubt, as usual, a military force within call ; but the *petits blancs*, or white mobility, of Bridgetown, were too formidable

But this is more than I am under any necessity of proving. It is enough for my purpose that the will

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to be opposed. They have also, it seems, since expressly set the laws and the government at defiance. A black mob which sets fire to a cane-piece, is punished, we may observe, in that country, with the slaughter of hundreds of the rioters in the field, and multitudes afterwards on the gibbet; but a *white* mob may pull down buildings in the capital town, without resistance, and brave the government afterwards, with perfect impunity and triumph.

The bold innovator whom I have imagined, would have also to confront dangers, or rather to submit to, certain consequences, not less deterring, though of a different kind,— I mean such as would affect his own private property, or that of his employers, and the security or satisfaction of their creditors.

Here I build on ground not yet fully rescued from controversy and popular mistake. I ask no credit, therefore, I repeat, for these views at present, but wish only that they should be understood.

What I mean is, that the members of these insular assemblies, being on an average, I think, about twenty in number, and in some islands considerably less, are for the most part either planters deeply encumbered with debt, or managers and other dependents of such planters. Now if slavery cannot be lightened, and progressively abolished, without present sacrifices such as they or their needy employers cannot afford to make; if, for instance, labour must be lessened, and sustenance increased (without which the fatal decrease of plantation slaves by mortality cannot be prevented), at the price of reducing the sugar crops, and augmenting the current expences on estates that barely now enable their owner to keep down the interest of the im-  
-cambrances; upon what principle can it be expected that he or his manager should propose or vote for laws, by which such painful sacrifices would be imposed? Not upon a feeling of humanity, certainly; for that would have led to their voluntary adoption: — not on a provident regard to the future interests of the estate; for it must soon cease to be his.

The case of the constituents, too, is not in general different. To a large proportion of the planters in our old sugar colonies, present diminution of net proceeds, would infallibly induce a speedy foreclosure or sale.

These views doubtless shew the difficulty of effectual reform to

at least is wanting ; and that the general disinclination of the assemblies to the work in question cannot be overcome without a continuance of those discussions in the mother country which they affect to deprecate ; or without parliamentary legislation, which is the only effect of such discussions that they really fear, and sincerely desire to avert.

Now, if this cruel and fatal system of slavery cannot be effectually mitigated or terminated without public discussions on the subject, I repeat, and am prepared to maintain, that these necessary means not only may warrantably be used, but cannot innocently be abstained from, by those who view the system in its true nature and effects ; even though it should be demonstrated that insurrections have been occasioned by, and are likely again to ensue from them. If the waste of human life alone were taken into account, this conclusion would still be undeniably just ; for the numbers that perish annually from the effects of that destructive system, are greater than those which have been destroyed by insurrections and their consequences in the course of fifty years.

In a right view, such melancholy events as those of Demerara and Barbadoes strengthen, instead of opposing the duty of reformation ; for how dreadful

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be extremely great. It is a truth that I have never desired to conceal or extenuate. To parliament itself, the work would be difficult to reconcile the relief or preservation of the slaves with the present interest of their owners, and the rights of their mortgagees ; but to the assemblies, it would be quite impossible. In that most essential point of reform, the enforcing an adequate allowance of food from the planters to their slaves, some of them have virtually, if not expressly, avowed it.\*

\* See p. 53. to 106 ; and Appendix, No. 3.

is that system which we can alone maintain by an enormous effusion of human blood, and in a cause which we feel to be in its origin unjust, whenever the slightest movement of resistance or insubordination occurs! If it was necessary to kill on the spot, on the late occasion, two hundred human beings, and to consign great numbers besides to the public executioner; to what but the state of negro slavery can that harsh necessity be ascribed?

Let it be supposed, for the argument's sake, that all the absurd calumnies which have been propagated as to the origin of the commotion are true. The more, if so, were the poor ignorant victims to be pitied. Their object was only to claim that removal or alleviation of a galling yoke which they had been taught, it is alleged, to believe the sovereign power had ordained for them. Still, what had they done? Not shed a drop of blood, nor burnt a house, or a cane-piece. The dreadful exigencies of the system, therefore, can alone be alleged in excuse of the extensive military massacre, and subsequent executions. A similar tumult in this country would, probably, not have cost the rioters a single life.

The colonial partisans seem to wish us to believe, not only that discussions in this country, and the instigations of missionaries, have been the causes of these events, but that these are the only causes from which insurrections are ever to be apprehended. But what security will they give us that perseverance in the existing system will be unattended with similar disasters in future; as they have so often been at former periods? Before the quiet of a silently destructive oppression was disturbed by any such discussions, or paganism and barbarism on the plantations were invaded by one charitable ray of Chris-

tian light, insurrections were far more frequent than they have since been ; and Guiana, too, was always their favourite region. Plots and conspiracies, real or imaginary, were familiar occurrences in almost every island ; and often have our brave soldiers been employed in the odious and pestilent service of suppressing, not a mere plantation broil, or local riot finished in an hour, but wide-spread and long-continued insurrections. He must be a very young reader who does not recollect such cases in Grenada and Dominica, Saint Vincents, and Jamaica. As to mutinies on particular estates, and imputed conspiracies for which slaves have been convicted and executed as rebels, those who have long resided in the West Indies well know the frequency of such occurrences ; but they used to be, for the most part, unheard of in Europe. The times were, when there were no motives for treating these cases with measures alarming in their character, and expensive in their consequences, such as calling out the militia ; for any ultra violence or severity against the offenders, for giving exaggerated accounts of such ordinary fruits of slavery, or for trumpeting them for months together in the ears of the British public.

The chief novelty in the cases of Barbadoes and Demerara, supposing the alleged causes to have been the true ones, is this,— that the British arms have been more justifiably employed in shedding the blood of our black fellow-subjects than formerly ; because the tendency and the object has been, not to perpetuate the full weight of an unjust and hopeless bondage, but to preserve the means of its peaceful and progressive termination.

Having premised these remarks, I proceed to give

the question of fact before proposed a direct and candid answer.

I will not affirm that public discussions in this country have, in no sense, produced the late insurrections in the West Indies ; because it may be true, though attested only on very suspicious evidence, that mistakes as to the true intentions, or actual measures of parliament, influenced the insurgents, both at Barbadoes and Demerara ; and certainly it was from public discussions here that the interpositions of parliament and of the crown, the alleged subjects of misconception by the negroes on those occasions, arose. The register plan would not have been recommended to the colonies in the one instance, nor the disuse of the driving whip, &c. in the other, if the merits of those measures had not first been freely discussed both in and out of parliament ; and if those offensive measures had never been recommended by the mother country, the white colonists would not have had any motive for raising that local tempest, and propagating those violent misrepresentations and clamours throughout the West Indies, by which alone, if in any way, the blacks were deceived. They would not have been rash enough to proclaim in the ears of their slaves that a general emancipation was intended for them by parliament, or by their friends in Europe, if their aversion to the measures really proposed had not been a feeling too powerful to be subdued or regulated by the ordinary suggestions of prudence. The discussions in question, therefore, though not the proximate or direct cause of the insurrections, may, in one sense, be said to have produced them, by having given rise to those public measures in this country which furnished the

subjects of clamour and misrepresentation on the part of the masters, and through their imprudence, gave occasion, perhaps, to a fatal misconception by the slaves.

In this view, these discussions stood nearly in the same causal relation to the mischief, that the preaching and writing of the pious fathers of our church, did to the fires of Mary's age in Smithfield. But if Latimer and Ridley had been taxed by their persecutors with this fatal consequence, we may conceive what would have been their reply. "The primary "cause of all," they might have said, "was your own "corruptions in doctrine and practice, which our "public discussions were the only possible means of "reforming; and now, these barbarous executions, "which you strangely impute to us, are the effects of "your own bigoted and relentless adherence to those "abuses, long after their reformation has been voted "by parliament, and called for by the general sense "of the English people. They are the direct and "immediate fruits of your furious rage against the "reformers, and of the fatal delusions practised by "you on the minds of those who possess the civil "power,—the slaves of superstition, whom you "despotically govern; and whom you have taught "to misconceive our true principles, and falsely to "impute to us mischievous designs."

Whether these intrepid friends of spiritual freedom would have so answered or not, of one thing we are sure,—they would not have been deterred by such reproaches from persisting in their appeals to the understandings and the consciences of their countrymen; or consented to avert from themselves or others, further evils of the same terrible nature, by an abandonment of their sacred cause.

Some of my readers, perhaps, may still conceive, that allowing public discussion to be on these views justifiable, it has ceased under existing circumstances to be clearly necessary, without the walls of parliament; because a powerful government, in concurrence with the voice of the Commons, is pledged for an effectual reformation.

I admit that the important and valuable pledge was given; and that we are now warranted by it to expect that parliament will at length take into its own hands the work which the subordinate legislatures neither will nor can perform.

The case which the Right Honourable Secretary of State, who moved the resolutions, described and deprecated, has arisen. Instead of "*a full and fair co-operation*" there is "*resistance*," and a resistance which "*partakes not of reason, but of contumacy.*"\*

It may be hoped, therefore, that His Majesty's government will act in consequence, as Mr. Canning intimated, under the terms of "*coming down to parliament for counsel.*" But I cannot be sure that such will be their conduct; and if I were, the publication of this work would nevertheless appear to me an indispensable duty; because a most obstinate opposition is preparing on the part of the colonies; and because I am satisfied, and certainly know, that the members of the legislature in general, and even ministers themselves, will, in the discussions that must ensue, stand in need of much information, such as is here offered to them, as to the true nature and character of the state in regard to which they will be called upon to legislate. In that case, no difference will be found between the practical views of

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\* Speech of Mr. Canning, in the debate of May 15th.

government and my own ; and my labours will only have tended to the promotion of our common objects in the best and safest way ; for though it has been artfully and most assiduously represented, that I and my fellow labourers in the cause of the slaves were discontent with the measures approved by the Right Honourable Secretary of State, and that we aim at rash and precipitate changes, beyond those to which, specifically, he has given the high sanction of his opinion as proper for immediate adoption in the colonies, that representation, like most other statements from the same quarter, is utterly false.

We were dissatisfied, indeed, with a new reference to the assemblies ; and I challenge any fair man who attends to the facts I have generally adverted to here, and proved in the following work, to deny that we had abundant reason to be so. We foresaw that it would prove, a new *slogan*, or war-cry in the West Indies ; which would certainly produce new clamours, and perhaps new mischief, but lead to no one useful result. We regarded it as an unjustifiable delegation of duties which parliament itself was bound to perform. We thought, and still think, that after experiments of thirty years' duration, the dignity as well as justice of the supreme legislature was compromised by such a course ; and that the most insulting, as well as absurd of all unconstitutional pretensions, that of an exclusive right of internal legislation in the assemblies, was countenanced at least, if not virtually admitted. That pretension, indeed, is one which Mr. Canning himself has repeatedly protested against ; and certainly no British statesman or lawyer, or any rational man who has considered the subject, will venture, on this side of the Atlantic, to defend it. It is a pretension which the potent North American

colonies, now the United States, never advanced, till they laid claim to independence itself ; and which this country, in her most earnest efforts for a necessary conciliation with them, was so far from admitting, that she expressly reserved her opposite rights, even in that very statute in which she abandoned the whole original ground of quarrel,—the practice of internal taxation ; a statute to which, notwithstanding, the sugar colonies have the confidence to appeal in support of this preposterous claim.

To admit such a pretension would be to lay down the imperial sceptre at the foot of every petty assembly. It would be to place this great empire at best in the state of an inferior or vassal ally, such as Napoleon once made of the feeble powers around him ; for it is noticed by the most eminent writers on public law, as a criterion of such an inferiority, and its most humiliating incident, that the inferior must assist with his arms in every quarrel in which the superior thinks fit to engage, without any power to put a negative upon unjust aggression, or to examine the merits of the case. He is to be dragged through the mire of iniquity and blood, whenever his injurious confederate proceeds, and commands him to follow.

Such precisely, in protecting the colonial whites against the slaves, would be the odious and degrading duties of this great country, if she subscribed to these arrogant claims. They deny us the right of controlling that interior oppression, resistance to which we are nevertheless bound to repress even by the most costly and sanguinary means.

True, these pretensions have not been expressly admitted by our statesmen ; and are in point of theory denied. But what has been the practice ? Just the

same as if they had been formally allowed. I speak not of former times, nor even of our own days prior to the abolition controversy; but in every thing since that period, which has had relation to slavery, parliament has been bearded with bold denials of its legislative power; and has always tamely given way, even in cases in which it could not be contended that the separate local legislatures could give full and convenient effect to the measures in question; measures proposed or approved of by his Majesty's government, and by parliament itself.

Such emphatically was the case of the bill for the registration of slaves.

I have elsewhere shewn, and by arguments to which no answer I believe has ever been given or attempted, that a slave registry, in order to be efficacious, must be established by parliamentary authority; because that alone can prescribe rules, and ordain sanctions and remedies, operative alike in every colony, governing their mutual maritime intercourse, and capable of being enforced on the high seas, and in courts of universal jurisdiction. The measure also being a necessary supplement to the abolition of the slave trade, and resting on the same high principles with that glorious reformation, was in its nature one for which the character of parliament, and the honour of the British people, were responsible; and which we were therefore bound to make effectual. Yet colonial clamours and alarms, precisely of the same kind that are now again employed, prevailed over every argument, whether drawn from national honour, from consistency, reason, or justice; and this rear guard of the abolition was sent to be formed and organized by the assemblies themselves; with earnest recommendations, I admit, in its favour

from parliament, and from the crown ; but addressed to the same assemblies which had for twenty years effectually resisted the abolition, and some of whom had protested against it to the last, even after it had passed into a law.

The effect was such as might easily have been foreseen, and as the friends of the measure predicted. The plan was partially and ostensibly adopted in twenty different forms ; but all so grossly defective, as to make it worse than useless. A measure which, to be effectual in any of our islands, must be made so in all, was no where adopted without fatal mutilations and defects. These evasions were publicly exposed. The promoters and authors of the measure disclaimed those impotent and impracticable substitutes for it ; and demonstrated that they were all calculated, not only to elude its salutary effects, but to bring the plan itself into disrepute. \*

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\* I ought not here to forbear quoting the following passages from the review of these colonial register acts, published by the African Institution, in its report of February 22d, 1820.

“ But whatever the motives may have been, the conduct of “ the assemblies has at least well justified those predictions in “ your former report on this subject, of which they so strongly “ complained. You said, ‘ *The work, if left to them, certainly will not be done.*’ You added, ‘ *Should the fear of the mother country taking the work into her hands now produce a less openly contumacious spirit than before, the fruits will be no better than ostensible and impotent laws. Registries would be established, perhaps; but on such a defective plan, and with such inadequate legal sanctions, that the desired effect would be lost, and the system itself would be brought into discredit; nay, would be made, perhaps, a cover for those very frauds which it was designed to prevent.*’ \*

“ Let the impartial — nay, let those whose prepossessions in

\* Report of the African Institution on the Registration of Slaves, published in 1815, p.107.

Meantime all objections to the principle of the measure had been progressively abandoned by the assemblies themselves. Several of them even had taken credit for it, as an important improvement in their slave laws, and as affording undeniable security against clandestine slave trade. The government also had, in its diplomatic negotiations relative to that trade with foreign powers, relied upon the system of slave registration as an essential guard of the abolition, and solicited its adoption as such in the colonies of France; a request with which that power had intimated a disposition to comply.

Can a case be imagined, then, in which it could be more incumbent on parliament, upon every principle which should govern the legislature of a great nation to maintain firmly its authority, than this?

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“ this controversy were most strongly on the side of the colonies,  
“ fairly compare this anticipation with the event, as exhibited in  
“ the present report; and then ask themselves whether your ap-  
“ plication to parliament was needless, whether the clamours to  
“ which it gave rise were just, and to whose charge some mis-  
“ chievous effects of those clamours may fairly be laid.

“ One only of the predictions, here quoted, yet remains to be  
“ verified: ‘*the system itself*’ is ‘not yet brought into discredit.’

“ To prevent this ultimate and fatal consequence, your commit-  
“ tee would earnestly recommend, that this review of the Colonial  
“ Register Acts may without delay be submitted to the British  
“ public. Your silence might be construed into an acquiescence  
“ in those mutilations and perversions of your plan, which must  
“ certainly frustrate all its objects, and produce in its operation  
“ nothing but inconvenience and mischief.

“ Your committee does not hesitate to add, as its clear  
“ opinion, that unless effectual measures shall now be taken by  
“ parliament to establish a slave registration throughout the  
“ British West Indies, on a uniform plan, and with the only  
“ adequate executory provisions, the plan had better be altogether  
“ abandoned.”

Yet the assemblies have been allowed to trifle on without control, till at length their true object is accomplished; and the last prediction noticed in the report I have here cited, is more than verified. They have not only "*brought the system itself into dis-credit,*" but in our largest island, the mutilators of it have the effrontery now to ascribe to its authors, the effects of their own insidious work. A bill, it appears, was read a first time, and ordered to be read a second time, without opposition, in the Assembly of Jamaica, in November last, for repealing its register act, on the ground of its being "*a troublesome, expensive, and obnoxious measure, and utterly useless;*" a character of it, which the reader, who will not take their word and mine for it, may find to have been abundantly demonstrated four years ago, in the report to which I have referred.\*

In the same newspaper from which I derive this intelligence, other articles extracted from the Jamaica gazettes, hold out the decent intimation that the assembly will give effect to its repealing act, if disallowed by the crown, by withholding the supplies necessary for the support of the registry. They affect to suppose that the promoters of the plan, which they have eluded and ruined, will be outraged at its formal abandonment; and do me the honour to name me among them, certainly by no complimentary epithets, but in very good company, that of Messrs. Wilberforce, Buxton, and Macaulay, and the noble Earl at the head of the colonial department himself. Of his lordship's sentiments on the subject I am wholly uninformed; but can assure them on my own behalf, and that of the three other gen-

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\* See pages 11. to 13. 41. 45. to 75. 86. to 88. 108. to 110, &c.

tlemen whom they have named, that our only objection to the repeal will be their having delayed it so long ; and that we heartily wish all the other Colonial Register Acts had been repealed long ago. Our reasons will be best expressed in the language of the Report which I have cited : " Not only will " the system itself, by those futile enactments, be " brought into discredit, but they will be made, " perhaps, a cover for those very frauds which it " was designed to prevent. Unless, therefore, effectual measures shall now be taken by parliament, " to establish a slave registration throughout the " British West Indies, on a uniform plan, and with " the only adequate executory provisions, the plan " had better be altogether abandoned."

Such was the avowed sense of the African Institution four years ago ; and such is now my confirmed and most deliberate judgment.

But I will go further, and with equal sincerity. If parliament is not now at length prepared to take the work of alleviating, and progressively abolishing slavery, into its own hands, I heartily wish it would give a direct negative to the petitions ; and not again at once mock the hopes of humanity, compromise its own dignity and authority, and excite interminable controversy and mischief, by new references to the assemblies.

Among other reasons, for the interposition of parliament, no other power can give equal and fair effect to measures, on the necessity or expediency of which the late resolutions were founded. The fatal subdivisions of legislative jurisdiction in the British West Indies, not less than the general spirit of the legislators, and the local prejudices by which they are fettered, demands the aid of the sole authority that

can correct the system at large, in a general and equitable way.

If it had been right to commit the destiny of the unfortunate slaves to the civil, as well as domestic government of their masters, and to assign to them no other lawgivers, but those who are themselves accomplices in every general abuse which it is the duty of a legislature to control, care at least should have been taken to constitute colonial assemblies of as much dignity and liberality of character as our West Indian possessions, having due regard to their local situation, might afford; and, therefore, when a great number of small islands nearly adjacent to, or at no great distance from each other, were to be placed under what has been most preposterously called a British Constitution, the maxim should have been to unite and consolidate, instead of subdividing, their legislative jurisdictions.

But the system has fatally been, not only to give to every newly acquired island, however insignificant in its dimensions and population, a separate governor, and council, and representative assembly; but to divide jurisdictions in the old colonies that were formerly united. The Leeward Charibee Islands, comprising Antigua, Saint Christopher, Montserrat, Nevis, and Tortola, with their respective small dependencies, which were once represented in one general assembly, and had the same governor and council, have now no less than five local legislatures; though in respect of most of them it would be wronging many country parishes of England, to say that their vestries, were not more fit to be intrusted with full powers of municipal legislation within their respective precincts. The consequences have been a difficulty, needlessly enhanced, of finding

liberal and independent members of these legislative bodies; and also their stricter subserviency, to the prejudices, and particular interests of the petty communities over which they preside.

Nothing worse than this system could possibly have been contrived, to make the condition of the servile class in the British West Indies completely hopeless, unless it were that abdication of the controlling power of parliament, on which the assemblies have now the confidence to insist.

In confirmation of these views, as well as most others opened in the following work, I may invoke the authority of the colonies themselves. When in consequence of the resolutions moved by Mr. Ellis, in 1797, and the powerful solicitations of the West India Committee, the then governor of the Leeward Islands, Mr. Thomson, and his attorney-general, Mr. Burke, (both men sincerely disposed to humane reformation) obtained the concurrence of many of the more liberal and influential colonists in those islands in the attempt to establish effectual meliorating laws, their first step was to convene a general council and assembly of all the islands within the government, (though that union had been disused for a century, and was consequently of questionable authority,) as the only possible means of effecting their purpose. They did not indeed accomplish it; yet the slave laws passed by that general legislature were, in many points, the best that have yet been obtained in any part of the British West Indies; and if they had not been totally neglected in practice, would have remedied many abuses of the most odious and destructive kind.

This salutary reunion has not again been attempted, and is now effectually precluded by the

late division of the Leeward Islands into two distinct governments.

Having thus far stated the reasons which justify my dissent, and that of the friends of colonial reformation in general, from the resolutions of May last, in respect of the fruitless reference to the colonial assemblies, a dissent which experience has too well confirmed, let me express my earnest hope that there will be at length an end of such experiments.

If it is fit that such a state as is delineated in the following work should remain unmitigated, till the hapless subjects of it perish in their chains, let the House of Commons at once rescind its resolutions, and leave the poor victims to their fate. But if any thing, however small, is to be done for their relief, I trust that parliament will cease impotently and mischievously to *recommend*, and begin at length to *ordain*.

What sound objection can now be raised to such effectual interposition?

Is it that the colonies are clamorous and violent in their protests against it, and that mischief may ensue? The same objections might have been opposed, and indeed long were, with fatal success opposed, to the abolition of the slave trade. That measure, also, was treated by Jamaica and almost every other colony, as "a direct invasion of their constitutional rights, and as a tyrannical oppression, to which they would never submit." In that case, also, numerous resolutions of the most audacious kind, bordering on sedition and rebellion, were framed at public meetings, and by the assemblies themselves. The measure which the very same men now affect to applaud, and hold inviolable, was ar-

raigned and deprecated, in terms of indignation the most intense that language could convey. Mr. Wilberforce, and its other promoters, were traduced and vilified by libels not less acrimonious than those with which the periodical press has teemed for months past against the same public characters. But parliament at length did its duty ; and what was the result ? An immediate cessation of all those idle clamours and alarms, and all that factitious indignation. A growling epilogue from the Jamaica assembly excepted, scarce a further murmur was heard ; and, ere long, the reigning tone in the West Indies was applause of the abolition, and reprobation of the trade which they had so zealously and pertinaciously upheld. They have since not only professed to adopt those very principles which they had before railed against as fanatical and pestilent errors, but have affected to regard every suspicion of the reality and universality of their conversion, as a grievous imputation and affront.

Let parliament now take the same direct and manly course, and we shall soon find a similar event. We shall only have to defend ourselves against the charge of having deferred the salutary work too long. These consistent colonists have had the modesty to accuse us of late years, for so long maintaining the slave trade. They have alleged that it was a British, not a colonial iniquity ; and we may hereafter expect to hear from them, that the protraction of slavery also, was the crime solely of the parent state.

Of the indecent menaces which Jamaica and other islands have again resorted to, it would be difficult to speak with temper, if they were not too ridiculous to excite any grave emotions.

They will renounce their allegiance!!! If so, we

shall have to subdue them by a new and cheap mode of warfare ; not by sending out troops, but withdrawing them. The most terrible of all hostile operations, would be the leaving them to themselves. They *threaten* us with a saving, even in the present pacific times, of at least a million per annum, and the lives of multitudes of brave soldiers and seamen, who are continually perishing in their hospitals, and in the ships of war employed in their defence.

They will assert their independence of us!!! Then I trust they will allow *us* also to become independent of *them* ; and a rich boon it would be. The people of England would be *punished* by saving two millions a year, which we now pay in the price of sugar, through their monopoly of our markets, after every pretence of reciprocity has ceased. The manufacturers and merchants of England would be further punished, by reaping a copious harvest in every foreign region in which sugar is produced. They would no longer have to abandon to rivals on the European continent, or in the United States, the copious supply of Cuba, and in a great measure of Brazil. By taking returns in sugar, we should nearly monopolize the import trade of both. I am far from recommending, indeed, our so encouraging the agriculture of countries which still adhere to the slave trade ; but it is probable that the boon of supplying the British markets, might effectually second our instances with them for the renunciation of that commerce. We might also regain, and engross, the very valuable commerce of Hayti, which, in complaisance to Jamaica, we have foolishly renounced. Above all, we should be enabled to cultivate in the East the richest field that ever was opened to a manufacturing and commercial people ; to reap the best fruits of our

vast Indian empire ; and greatly to strengthen its foundations. The looms of England would be in full requisition to clothe the natives of Hindostan, and their willing agricultural industry would give us full freights for our shipping, as well as copious supplies for our consumption of sugar, in return. We might soon so far reduce the commodity in price, as not only to extend its consumption here, to the great increase of our revenue, but to undersell every foreign rival that raises it by slave labour, in all the markets of the continent. We might thus ultimately put an end to slavery in the new world, through the competition of free labour, aided by British enterprize, in the old. Europe, and Asia, combining their commercial faculties under the British flag, might deliver Africa from the slave trade, and America from its pestilent fruits. The foulest reproach of commerce might be wiped away by the beneficent hand of commerce herself, and the mistress of the seas might obtain a new title to be hailed as the benefactress of mankind, in every region of the globe.

Nor would these vast and brilliant attainments be counterpoised by any of those heavy burthens in time of peace, or enormous consumptions of our military means and finances in time of war, to which we are subjected for the security of our slave peopled colonies. What these are, and have long been, I cannot with any certainty state. It is high time that the people of England should be enabled by parliamentary investigation, fairly to ascertain them. Meantime I will hazard an estimate, that our sugar colonies have cost us during the last thirty years, at least an hundred and fifty millions of national debt ; and fifty thousand lives.

In future, they are likely to be still more costly ;

and unless that cruel and baneful institution which forms their interior debility and danger, shall be speedily and effectually reformed, I deem it highly probable that the present generation, which has seen our country in the zenith of its power and glory, may witness also its rapid decline, if not also the total ruin of its greatness, as the just and natural reward of our oppression.

I can here but briefly notice the sources of this apprehension. They are to be found in the new political positions of almost every region in North and South America, and of every European power that has colonies in either ; in the expulsion of France from her settlements in the East, and her colonies in the West ; in the new political state of Hayti, and the dubious future relations of Cuba ; in the possessions which we have imprudently and perniciously acquired on the South American continent ; and, above all, in the gigantic growth of the United States, in territory, and maritime power.

Let any statesman capable of enlarged views, contemplate, under such circumstances, the event of our being soon engaged in new hostilities for the defence of our West Indian colonies. Let him calculate what the aggravation of the arduous service would be, if North America were hostile, and the ports of Hayti open to her cruisers, or those of our other maritime enemies ; as from the bad and offensive return which West Indian influence has led us to make to the amity of its government, we have every reason to expect. Let him next turn his eyes to our enormous wide extended possessions in the East ; which every maritime state beholds with an envy undisguised, and where France will no longer have to divert her means of annoyance for purposes of de-

fensive war. Let the necessary defence of our new African settlements, and of the Mauritius, also be taken into the account. In the latter, a large stationary force would be necessary to maintain its allegiance to its new, in a war with its former, sovereign: to native feelings, would be added discontent with the abolition of the slave trade, and with that real grievance, the heavy tax on their produce imposed, with an unfair partiality, for the benefit of our West Indian colonies.

With such new belligerent prospects, what British statesman can contemplate without alarm the usual consumption of our military and maritime means in West Indian campaigns. Yet our defensive operations, there must be now of an extent far exceeding all former precedents. We have now continental, as well as insular possessions, to defend; and they are scattered all the way from the mouths of the Oroonoko, to the Mexican Gulph. Spain, on the other hand, will probably in the western world have nothing to lose, and France nothing to defend, but two nearly contiguous islands, naturally strong, and now rendered impregnable by their certain fidelity to a flag which still protects their slave trade. We never had a field of war so barren to us of gain or glory as the Caribbean seas must hereafter prove; nor one in which we should present to our old enemies so many vulnerable points. But the difficulty, and the overwhelming expence of defending our sugar colonies, may be still further aggravated, if we should, unfortunately, have among our enemies the United States of America; extending, as they now do, their southern wing all the way to the Mexican Gulph, and possessed of a brave and active marine.

When confined in the West Indies to defensive

operations, the consumption of our naval and military means there, would be an uncompensated evil. No other diversion of them could so widely prejudice our operations in the east, the wrestling place where we shall probably have to put forth all our energies in future wars.

There is only one effectual preparative against these formidable difficulties, with which we may soon and fatally have to conflict. Let the black population be conciliated, and its fidelity secured ; let the negroes be raised to a condition in which they can safely be trusted with arms ; and then our sugar colonies might be safely left to their interior means of defence.

But this the assemblies will not concede ; and yet they threaten us, *risum teneatis !* they *threaten us* with their independence !!!

And what are we to lose by it ? A *capital*, they tell us, which they affect to value at I know not how many scores, or hundreds of millions. The *Poyais* stockholders might as well deprecate on that score the loss of Sir Gregor Macgregor's principality. What is the worth of that capital which never produced, or can produce, on an average, any thing but loss ? True, there are prizes in the sugar planting lottery ; and high ones ; but I have proved, from their own statements \*, and will demonstrate more fully, if necessary, in the second part of this work, that loss and ruin are, and always have been, the lot of a vast majority of the adventurers. I undertake to shew, upon premises established by the concurrent evidence of the most eminent planters and merchants, and by reports of committees of the House of Commons,

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\* See page 92 to 95, and Appendix, No. IV.

that upon an average of the returns from capital embarked in sugar-planting in our sugar islands, in long periods, comprising the times of their greatest prosperity, there would be heavy loss, instead of gain; without allowing anything even for the subsistence of the absent proprietors. But as these returns are most unequally divided, in proportion to the capital employed, and vary enormously in their amount at different periods, and as it is not the characteristic of the owners of such property, any more than of other adventurers in hazardous speculations, to limit their expenditure by their average incomes, the loss does not fall on themselves alone. When a West India planter fails, his merchants and mortgagees and creditors in this country, are almost sure largely to suffer. When a West India merchant fails (and how very common an occurrence that is, the commercial world need not be told), the manufacturers and others who are connected with him in this country, deeply feel the effects of his ruin, and are often drawn down by his fall. On the whole, it may be safely affirmed, that in a general and collective view, not only is the capital employed in raising sugar by the labour of slaves, wholly unproductive of profit or interest, but no small part of the capital itself is finally lost; and with consequences widely injurious to commercial credit in general.

We are threatened also with a loss of *revenue*. This will be alarming, when it is shown that thirty-seven shillings a hundred weight is less than twenty-seven; or that foreign growers of sugar will not send it to the best markets; and also that a hundred millions of British subjects in the east, with an immeasurable extent of fertile soil fit for the sugar cane, cannot supply our consumption. The preposterous

position that the import duties on sugar are paid by the colonial grower, and not by the British consumer, is unworthy of a serious answer. Its utter falsehood has been often demonstrated, even before the late repeal of our navigation laws, for the accommodation of our planters; yet its truth is still assumed with as much confidence by every colonial writer, as if the idle paradox were liable to no dispute; and they gravely attempt to alarm us in consequence with a loss of above six millions per annum! If they are right, the import duties on port wine are paid by Portugal, and those on French brandy by France. We have only to import goods enough, and tax them high enough, in order to pay off our national debt out of the purses of the foreigners we buy from. If we could obtain the commodity from themselves alone, and they could sell to us only, or were not allowed to draw back the duties on re-exportation, the doctrine would still be extravagant; but while we exclude all other competitors from our markets, and allow them to feed or starve our consumption at their pleasure, no words can do justice to its absurdity.

These alarmists forget, that there is no longer any bond but their own interest, for their resort to the British markets. They are now enabled to send their sugars where they please; and they will withhold them from us, of course, if they can get a better price elsewhere. But America it seems, and other foreign countries, do not choose to accept from them, on the same terms, this large and gratuitous revenue.

There is an end of the old pretence of our having a monopoly, in return for the charge of protection. The monopoly now is all on one side; and it binds the protectors, not the protected. The loss of our North American colonies, however, and its effects,

should have much sooner exploded the error, that the dominion of a country is necessary to ensure its commercial preference ; and proved that if our West India islands were independent to-morrow, we should not have an ounce less of their sugars, except because we bought them cheaper elsewhere.

Lastly, we are menaced with a loss of *export trade* and *freight for our shipping*. The very reverse would be the effect of the separation supposed. Our gains in both those important interests would be extremely great. There is no country on earth where sugar is raised that would not take a much larger portion of our exports in exchange for that commodity than these slave-peopled islands, where the labouring class consume scarcely any article we supply, except some coarse clothing, and that in a most scanty degree ; and where the owners of the sugar, for the most part, do not reside. I should be astonished, if any representations from that quarter could still surprize me, at finding some of the indefatigable pens now employed in the service of the planters, bold enough to speak even of losses to our English landholders. What benefit do these derive from the sugar colonies, to the onerous support of which they so largely contribute ? Is it relief in any degree from the burthen of the parochial poor ? Almost every other of our trans-marine possessions takes off some small portion of our redundant population, for purposes of agriculture or domestic service ; but not one labouring hand finds such employment by emigration to the West Indies. Is it relief to our unfortunate farmers, and their still more unfortunate landlords, by exports of flour or grain ? The consumption of such articles in islands chiefly dependant for the food of the slaves, and of all classes on imported provisions,

certainly ought to afford such a benefit, and formerly, in some measure, did so ; but now they are supplied almost exclusively from the United States. Even our North American colonies must henceforth be excluded from a participation in this trade ; and will find no vent for their produce but in our own overloaded markets. They are mocked indeed with a small protecting duty on those articles, when the growth of the United States ; but as its produce in every island is to go into the insular treasury, and will be a substitute for interior taxes, it will be no drawback on the economy of preferring foreign flour and grain, to those of British North America and England.

They produce to us large returns of manufactures cleared out for their ports ; but these, like the rest of their statements and evidence, are, for the most part, fallacious. If, from the amount of such exports, the very large proportion of them, for which our West India ports are mere *entrepôts* for the supply of South America, (a circuitry that we no longer are driven to), were deducted, the remainder would be of small account. It would bear at least a very minute proportion to the sugar we take in return ; whereas, in Cuba, in Brazil, in Hayti, and above all in Hindostan, we might pay with our manufactures for almost every hogshead of sugar or bag of coffee we bought.

The same considerations apply to our maritime interests. There would be a large increase of outward and no diminution, at least, of homeward freights. Let these threateners prove to us, if they can, that a ton of sugar brought from Brazil or India, will pay a less freight than if it came from Jamaica.

What then should we lose by the independency of our sugar colonies, or their transfer to a foreign

power? I answer, if parliament is not at length prepared to mitigate, and progressively abolish slavery, nothing at all. The saving of blood and treasure in their defence, and of capital in their cultivation, would be pure unbalanced gain. But on the opposite supposition, the loss would be great indeed; a loss so lamentable, that to avoid it we ought to submit to all the evils, and all the privations, that these ruinous possessions subject us to. We should lose the precious opportunity of redeeming the national conscience, and the national honour, by making some restitution, a tardy and imperfect one indeed, but all the restitution in our power, to seven hundred thousand hapless human beings whom we have deeply wronged, the victims of the iniquitous slave trade. Were our sugar colonies to be separated from the British dominion, we could not alleviate, we could not progressively terminate, the cruel bondage in which, through our crimes, they have been placed.

For their sakes, therefore, we are bound still to sustain the heavy burthens I have noticed, to encounter the serious dangers I have anticipated, to renounce the splendid advantages I have described. Justice, sacred justice, is not to be put in the scales against national interest, or even national security. The Ruler of the destinies of nations might frustrate the selfish estimate, and punish the base desertion of acknowledged duties, by evils worse even than those which deliverance from these colonies would avert.

I am prepared, therefore, to say, that whatever sacrifice the relief of the oppressed slaves may involve, it is the price of a reparation we are bound to make to them. Let parliament enter on the work, and their advocates will object to none of the neces-

sary means. I do not except indemnity to their masters, as far as it is justly due. Nay, we might, perhaps, justifiably go further, and make sacrifices, such as I do not think it necessary particularly here to explain. It might be allowable to relieve the sugar planters at the expence of the people of this country, by making their monopoly of our markets more perfect and more profitable to them for a limited period than it has hitherto been, through fiscal regulations, made subservient to the all important object of correcting their interior system, by insuring a willing conformity to act of parliament to be made for that purpose.

But if, which may heaven avert, this sacred duty of the British legislature is to be abandoned, or, what is the same thing, still committed to the assemblies; then the measure next in wisdom, and next in justice too, is to take the colonists at their word; and to renounce that dominion over them, the continuance of which will only involve us in deeper guilt, and perhaps in future ruin.

I say, it is next in justice,—because, when separated from the government of a country which yields them no protection, the condition of the slaves will be less hopeless than at present. If the colonies are to be independent, regard for their own safety may oblige them to conciliate that large mass of their population which they can now safely oppress. If on the other hand, they shall pass to the dominion of another power, it will probably be one that will not abandon them wholly to the legislation of assemblies formed and elected by their masters. We hitherto stand alone in that weak and reproachful maxim of colonial policy. Neither Spain, nor Portugal, nor France, nor Holland, nor Denmark, has omitted to

make laws in Europe for the protection of the slaves in their West Indian settlements, though the two former only have made them with effect: nor would the United States, if the sugar colonies should devolve to them, leave slavery there unmitigated, or unlimited in point of duration. A fundamental principle of their union alone has prevented the general congress from mitigating or abolishing the odious institution in the southern states. At all events we should escape, by the supposed separation, the dreadful necessity of shedding the blood of these helpless victims of our power, when intolerable oppression goads them again into resistance.

Having thus shown that the legislative interposition of parliament is indispensably necessary, and repelled the objections to it that are so assiduously and clamourously raised, I need say no more to justify public discussion at this period; for in the near approaching session, the practical question of such interposition may be finally decided; and if my labours are likely to be in any degree useful, it is in assisting members of the legislature to form a sound judgment on that momentous question.

The bulk and character of the following work will at least secure it, I trust, from the ordinary censures of colonial opponents. They will hardly allege that it is addressed merely to the passions of the vulgar, or is likely to be read by the slaves. Nor can they accuse me of advancing unauthenticated facts, or inducing from particular instances of cruelty an unfair prejudice against the colonists at large, — charges which they usually advance, with however little reason, against my fellow-labourers in this cause. My facts are of a public and general kind, and the proofs of them decisive, if any evidence can be so. My ar-

gements also are addressed, not to the feelings of the ignorant, but to the understandings and consciences of intelligent and dispassionate readers ; and more especially the members of that liberal profession to which I have the honour to belong.

As to offensive personalities, I have scorned to follow in that respect their own illiberal example. I have anxiously avoided them, even in combating public statements and evidence that naturally excited feelings very adverse to their authors. I have abstained also from noticing particular instances of oppression and cruelty, though able copiously to do so, except once or twice, when cases attested by the records of courts of justice, authentic copies of which are already before the public, served to illustrate my general views. Even in those few excepted cases, I have avoided giving the names of the parties implicated, lest it should give needless pain to their friends or connections.

I claim no merit in such forbearance, still less for not assailing the private characters of individuals who have written on the opposite side. The advocate who does so, betrays his diffidence in the merits of his cause, and sins deeply against the public in attempting to suppress, by intimidation, the voice of argument and truth.

On the other hand, I owe no apology for having treated the colonial system in general and its cruel effects with all necessary freedom of censure. In doing so, I may indeed give offence to those who are engaged in it ; and it is a consequence that I regret ; the more so, because I know that many of them are unwillingly of that description, many more, especially among proprietors in this country, ignorant of the true character of the system, and not a few, sincerely

desirous of its reformation. But when any public institution, or reigning practice, is to be arraigned on moral principles, such consequences cannot be avoided. Many men, I doubt not, of humane and honourable minds are addicted to gaming; but if I were to publish strictures on that vice, I ought not, in tenderness for their feelings, to spare a free exposition of the miseries and the crimes produced by it.

My quarrel is with the system itself, not with its administrators; and if it were possible fairly to delineate the one, without giving umbrage to the other, it is the course I should gladly pursue. In effect, the views which I have endeavoured the most anxiously to impress, furnish the best apology that can be made for the colonial proprietors consistently with the truth of the case; for my leading objects have been to show that negro slavery, as it exists in the sugar colonies, tends in its nature unavoidably to produce the worst of the evils and abuses which prevail there; and to make them incorrigible, under the local circumstance, by any other authority than that of the British parliament. I have shown that neither the proprietors in general, nor the assemblies, are in this respect free agents; and what better or other excuse can be made for them? It is in vain that they give up in their apologies the credit of their predecessors, or even their own in respect of recent periods, and that every new meliorating code is a virtual satire on the former ones; for I have proved by their own evidence, that even the latest and the best are useless. The only sound apology is that parliament, in delegating its own duties to the local legislatures, has compelled them to undertake, when they have not power to perform. The surgeon might as well put the incision knife into the hand of his

trembling patient, or tell him to reduce to its right position his own fractured and dislocated limb. It is true the patient here earnestly desires it; but only because he shrinks from the salutary and necessary operations.

But here let me anticipate one objection to parts of the present volume, which I doubt not the colonists will raise. They will complain that I have cited many of their early slave laws, framed in a cruel and illiberal spirit, which they allege no longer to exist; and many even which have been repealed. That I have cited such laws is true; but those only which were in force at the commencement of the æra of ostensible legislation, consequent on the parliamentary discussions on the slave trade; and they are almost all to be found in a report of the committee of privy council on the slave trade, dated the 28th March, 1789, which contains a digest of the then existing slave laws, compiled by Mr. Reeves, the law-clerk of the committee.

The only exceptions that I remember, are certain laws of Jamaica, not comprised in that report, because, prior to its date, they had been repealed by the meliorating act of that island, passed in December, 1788. To some of these I have found occasion to advert, as laws no longer in force indeed, but which certainly are not to be regarded as the forgotten or obsolete work of long exploded prejudices; for the book I cite them from is one printed by the king's printer in Jamaica in the year 1787; and it appears by a notice prefixed to them, that the reason of their republication was their having come again into force on the 1st of January, 1785, on the expiration of a temporary act of 1781, by which they had been repealed or suspended. They had, therefore, been reviewed by the legislature within a few years, without exciting such

disgust as to be finally abrogated ; and after its attention had been publicly called to their revival, were suffered to remain in force during three whole years, till the parliamentary discussions led to their repeal.

A most important object of my work being to show the true spirit of colonial legislation in regard to slaves, and the popular feelings from which it emanates, in order to prove that the presumptions plausibly contended for on behalf of our fellow-subjects in the West Indies, are not justly due to men habituated to the government of slaves, and that the interposition of parliament is consequently necessary ; no fair objection can be made to my citing for that purpose colonial acts passed at a time when there was no motive for concealing the real views and feelings of their authors. Many of the worst laws of which I have made this use, are of a very modern date ; most of them are still in force ; and they all were so up to a time at which their repeal was generally thought to be necessary for arresting the legislative hand of parliament, and maintaining the slave trade. I have never, however, cited any act which I knew to have been repealed, without noticing that fact ; and when I have had any reason to surmise that they are not still in force, I have given the assemblies the benefit of the opinion or doubt.

In general my rule has been, to conclude that all the slave laws contained in the privy council report of 1789, remain unrepealed, except where the contrary appears by acts since laid before parliament, and printed by the house of commons ; all of which I have carefully reviewed.

As repeated orders of that honourable house and addresses to the crown have called for copies of all such acts, amending or altering the slave laws since

1788, and they have in consequence, at different periods, been officially laid before the house, and printed, I am well warranted in that conclusion; especially as the agents and parliamentary partizans of the colonies have no doubt been too vigilant to overlook omissions unfavourable to the credit of their cause.\*

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\* It may be proper here to specify the different collections of these laws to which I have referred, and the dates of the orders of the House of Commons under which they were printed. They are as follows:— 1st. Papers printed by order of June 8, 1804; B. E. F. and H. 2d. Papers printed by order of the 5th April, 1816; being a return made in pursuance of an address of the 12th July, 1815, of all such laws as had been enacted in any of the colonies relative to the protection or good government of slaves since the year 1788. 3d. Papers printed by order of February 26, 1817, intituled, Colonial Laws and Correspondence respecting Slaves. 4th. Papers printed by order of 16th April, 1817, intituled, Additional Colonial Laws respecting Slaves. 5th. Papers with the same title, printed by order of June 6, 1817. 6th. Papers printed by order of June 10th, 1818, intituled, Further Papers relative to the Treatment of Slaves in the Colonies. 7th. Papers printed by order of June 7th, 1819, intituled, Papers relating to the Treatment of Slaves in the Colonies, viz. Colonial Acts of Berbice, Dominica, Grenada, Nevis, and Tobago. 8th. Papers printed by order of 27th February, 1823, intituled, Acts of Colonial Legislatures for Registry of Slaves.

These eight sets of papers, some of them very voluminous, contain collectively, to the best of my knowledge and information, all the slave laws passed since the date of the Privy Council Report that have ever been laid before parliament. I have been assured by the public friends, members of the house, and others, who have attended more to these subjects, that no further laws have been presented; and I therefore have a right to presume that no others have been passed and transmitted up to the period of the last return.

It is nevertheless possible that some omissions of that kind may have accidentally occurred, and having very recently found reason to suppose that in one instance the fact is so, I have noticed the surmise. (See page 408.)

The reader will perceive that in one respect I have departed from the plan of this work, as explained in

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In another instance, I have perhaps been led into a mistake, to the prejudice of the legislature of the Bahamas, by a clerical or typographical error; for I have more than once cited an act of that island passed in 1784, contained in the Privy Council Report, and not finding it among the acts *suspended* by the Meliorating or Consolidation Act of that colony, have expressed no doubt of its being in force. But having finally collated my work, since it was nearly out of press, with the voluminous parliamentary copies of slave laws here referred to, I perceive that an act of a different year, the 20th of George 3d, or 1780, is suspended by a title which corresponds with that of 1784 in Mr. Reeves's digest. The date, therefore, perhaps is erroneous. I doubt, however, a little of the fact; because there are several other acts with nearly the same title in that suspending clause, as the reader who takes the trouble of referring to it will perceive; and they are hardly distinguishable from each other, except by their dates. (Papers of Feb. 26, 1817, p. 8.)

After all, the mistake can only make this difference, that the assembly should have had credit for thrice *suspending* only, not *repealing*, one of the most cruel and illiberal of the slave laws that have been passed in any of our colonies within the last forty years. It has been three times the subject of legislation since the meliorating system began; for this suspending act has been passed, and continued, only for short terms of years, and the last continuing act to be found in the parliamentary papers has reduced the term of limitation from ten to seven years, ending in 1823.

I have been the rather led to guard the credit of my accuracy with the reader by this note, because I have just seen in a most abusive and deceptions work, (one of the many pamphlets now circulated here with extreme assiduity by the colonial party, professing to be a correspondence between the Governor and the Council and Assembly of St. Vincent,) notices of a new Slave Act of that island, of which I never before heard; and which, from the description there given of it, may possibly have repealed or altered some of the modern slave laws of that island, which I have cited with well merited censure. I find also in it a strange complaint that "in the colonial office, where all the laws of the colony are sent, every enactment which shows any disposition to improve the condition of the slaves, is either neglected or forgotten." The

the preliminary chapter. It was my purpose to suspend all practical conclusions, till I had fully delineated the state of colonial slavery as it exists in practice, as well as in point of law; but I then expected to be able to publish both divisions of my work together; or at least to publish them both before any decisive parliamentary discussions on the reformation and gradual abolition of the state were likely to take place. Disappointed in this expectation, I have thought it necessary so far to deviate from my plan, as to accompany my account of the slave laws with many practical remarks and conclusions, such as my premises sustained, lest they should come too late to be useful.

Having thus far, I hope, fairly defended the present publication, one topic remains; the last on

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act is stated to have been passed in September 1820; it is possible therefore that it may have been transmitted and allowed too late to have a place among the slave laws last called for by parliament, and contained in the printed collections.

However this may be, the legislature of St. Vincent's will certainly sustain no prejudice of which it has a right to complain, by my citations; for it has at least adhered to those most oppressive and cruel laws till three years ago, and for no less than twenty-three years after the earnest solicitations of the crown, and of the West Indian Committee, consequent on Mr. Ellis's resolutions, had called on all the islands for a reformation of their slave codes.

From the description given in the pamphlet itself of this very tardy emendation, I doubt not it will be found of the same character with the other meliorating acts. But I admit that the repeal of such penal laws against slaves as are cited in the fifth chapter of this work, sections 6 and 7, (to which the whole subject of this note relates,) is as far as it goes an improvement, for I do not suppose the courts or magistrates will punish men upon criminal prosecutions under laws that no longer exist. I have therefore been, and shall hereafter be, desirous to give them credit for such repeals whenever the fact appears.

which I would choose to exercise the patience of my readers; the defence of the author himself.

To the general abuse and invectives with which I have been long assailed, not only in pamphlets and newspapers enlisted in the service of the planters, but by the colonial assemblies themselves, the best and only answer will be found in the merits, when fairly examined, of the cause that I have ventured to advocate. To personalities, however offensive, if unconnected with the subject of my work, and not tending to impair its influence, I should probably have disdained to reply. But when false specific charges are advanced against any advocate of a public cause, tending to injure his credit in that character, duty to the cause itself forbids him to be silent. Though I ask from my readers no confidence in any assertions of my own, but rely wholly in the following work upon facts which my opponents themselves have, by their own public acts or their public evidence, incontestably established, there are many readers with whom their good or ill opinion of the author's sincerity, will insensibly influence the effect of his statements, and still more of his reasonings upon them.

For this reason, confirmed to me by the opinions of friends whose judgments I respect, I think it not allowable here to leave unnoticed assertions confidently made by anonymous writers, in public prints devoted to the colonial party, which I have hitherto suffered to pass without contradiction, as to my conduct in the West Indies.

It has been boldly asserted that I was myself engaged in that very system, the unjust and cruel character of which it is the object of this work to delineate; that I was the owner of a plantation, and

of the slaves employed in its culture ; and that I sold them on leaving the West Indies ; and on these premises, it has been imputed to me that by labouring to promote the emancipation of the slaves without returning the purchase money, I am in effect attempting what would amount to a fraud on the man who dealt with me.

My answer is, that though I lived in the West Indies eleven years, I never was the owner of a plantation, or a slave.

The charge therefore is as false, and as diametrically opposite to the truth, as even the foul calumnies by which the same virulent hostility has been long and incessantly assailing before the public, the character of my very estimable and much respected friend, Mr. Macaulay ; and it is impossible to describe the most flagitious falsehood in a stronger way, to the feelings of every reader to whom that excellent man, and his conduct in life, are known.

But there is a power in reiterated public defamation, of which the innocent, who have never been the objects of it, are not aware. In this land of libels, the purest and best known character is not safe. It has been justly said on a late public occasion, in a quotation I think from Mr. Burke, that by publishing the same calumny every day in the year, it may be so effectually forced into circulation and credit, that even its first inventor himself may be brought at last to believe it. To attempt refutation is idle ; to appeal to the laws, even when the slander takes a shape to admit of that recourse, is in vain. The man whose defamation is laid on the tables of every coffee-house six days in the week, and placarded on the window shutters of every Sunday news shop on the seventh, sustains a wrong not to be compensated

or repaired, except in that world where the secrets of all hearts shall be made known.

Our opponents are expert in these odious tactics ; and I may suffer from them, like my friend, who, in revenge for his generous, successful labours in the cause of the abolition, and his more recent exertions in the cause of the oppressed slaves, has had such persecution most unsparingly employed against him, not for one only, but for many years ; and with effects such as might deter any man from the imitation of his public services, who did not possess his own intrepidity, derived from the same unfailing source.

*“Blessed are ye when men revile you, and persecute you, and say all manner of evil against you falsely for my sake.”* The cause of the oppressed, is the cause of Him by whom this blessing was pronounced.

To say that I was a proprietor of slaves, is in itself no reproach ; still less is it a species of defamation which the law would redress ; but it might, in my particular case, be opprobrious, because I have maintained and published opinions which a man who had been an owner of such property could not decorously or consistently hold ; or not at least without a candid avowal of the fact. Very many colonial proprietors are men with whom, in point of character, it would be the reverse of imputation to be classed ; but their views of West Indian slavery are different from mine, and it is not by *my* principles that they are to be judged. It is because I am, and always have been, an avowed enemy to the institution itself, and hold it to be, in a moral view unjustifiable, that my accusers, not without reason, think it a good argument *ad hominem*, and a reproach, to charge me with having been an owner of slaves. For that reason only, I challenge them to

make proof of their assertion ; and invite any man who has character to lose (*that* shall be his only peril) to avow himself the author of the charge. If true, its proof would be easy ; because such property cannot be acquired or transferred in the West Indies without evidence remaining in a public registry. Let them name the island in which I held the estate ; or the man to whom I sold it.

My enemies will not however put the fact to such a test ; but will probably take the safer course of hammering the falsehood on the public ear till it is believed ; and may soon add to it perhaps, as in the case of Mr. Macaulay (who never concealed that he had been engaged in planting), the charge that I was a cruel master, and driven from the West Indies for that cause. I will therefore be obliged to any reader, ignorant of my history and character, who will take the trouble to enquire of some of the respectable merchants or proprietors now in England, connected with the Leeward Islands, whether I ever held such property ; and whether I was not, on the contrary, remarkable for the singularity of carrying my dislike to slavery so far as to have no domestics but hired servants, during the whole of my long residence in Saint Christopher. Such was the well known fact. During the chief part of the time, I had a family there, which required a pretty numerous domestic establishment, and it was a great breach of œconomy not to buy my servants ; but I was served only by free persons of colour, or, when I could not find such of a suitable character, by slaves let out to hire by their owners.

Nor did I expose the latter, to the disadvantages mentioned in this work as belonging to their situation in general. From the first, it was my resolution that

such of them as served me long and faithfully, should not remain in slavery ; and I acted up to that purpose. I obtained their manumissions, either by paying the whole value, or adding to what they had themselves saved for the purpose, or vindicating by law a right to freedom, which had, in one instance, been unjustly withheld. Not one of them who had served me for any considerable time without misbehaviour, was left in slavery ; except in one instance, which may serve to shew the hardships of that state in general. I repeatedly offered to purchase his freedom at his full value ; but the owner would not consent. At length he came from a distant island, at which he resided, to take the man away. To save the poor fellow, not only from slavery, but exile, I intreated the owner to accept his value, to be ascertained by any person of his own nomination, and when this was refused, to name his own price ; but he was inexorable ; and for no juster reason, but that he knew the man's integrity, and other valuable qualities, and therefore wanted him for his own domestic use. The slave's merits therefore, and his fitness to make a right use of his freedom, formed, as too frequently happens, the bar to his attainment of it ; and his reward was a perpetual exile from the connections and the island which long settlement in it had endeared to him. In a Spanish or Portuguese colony, he might have compelled the master to enfranchise him by a judicial appraisement.

I doubt whether it is worth while seriously to notice another imputation with which I have been repeatedly assailed, that of *ingratitude* to a community in which it is alleged I acquired great wealth by my professional practice as a lawyer.

It is begging the whole question to regard my pre-  
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sent labours as hostile or injurious to the colonies. I maintain, and most sincerely think, that those who would deliver them from the curse of slavery are their truest friends. But were it otherwise, am I to regard that laborious part of the community by whose toil every source of gain is supplied, as excluded from the grateful recollections to which I am thus called? True, they were not among my clients; neither are our parish paupers among Mr. Scarlett's; and yet the man would be stared at who should condemn the late humane and public spirited efforts of that gentleman for the reformation of the poor laws, because the English bar has rewarded his pre-eminent talents with the affluence that he enjoys.

Unfortunately however, the parallel in the last point fails; and my accusers build as usual on imaginary facts. The Saint Christopher bar indeed gave me, in return for extreme labour in the prime of my life interrupted only by frequent and dangerous diseases to which the climate subjected me, all that to a single practitioner it had to give; but this all, was so far from great wealth, that it, in general, scarcely exceeded my current expenditure; and the very little capital I at last acquired to sustain the unpromising experiment of returning to practice in this country, when sinking fast into my grave from the effects of a tropical climate, was chiefly or wholly derived from foreign clients, in the Vice Admiralty Courts. If the American claimants, whose captive ships crowded the harbours of that and the neighbouring islands in 1793 and 1794, and for almost all of whom I was employed, were to set up this claim of gratitude, its foundation would be somewhat less unsound.

Let me not be understood, however, as disclaiming all obligations to my West Indian clients and friends.

To such of them as are living, and to many more, alas! whom I shall see no more till all human contentions are ended, I owe what is better than wealth—great personal kindness, and long continued attachment. Their obliging preference followed me into practice here; and gave me, as a chamber counsel, and a practitioner at the Cockpit, advantages which in my then circumstances were of great importance, and were rapidly increasing, till, by taking a public part in the abolition controversy, I willingly renounced them. The greatest of the sacrifices that I have made to the cause I still feebly support, though they have been neither few nor small, was to encounter their displeasure; or rather, as I do many of them the justice to believe, an estrangement from me, which the irresistible impulse of an *esprit de corps* compelled them to, against their real feelings. They knew my sincerity; and could not in their hearts condemn me for maintaining in England, views and principles which I had always avowed and acted upon, often at no small personal risk, while resident among them.

To the imputations of self-interested motives in my labours, first in the cause of the Abolition, and since of the Slaves, I could give not only decisive, but triumphant answers. Perhaps I may hereafter do so. But I will not further weary my readers now with such statements as that subject would demand, especially as they would involve matters of delicacy towards public characters, some of whom are still living. I will here however deny, in the most unqualified manner, the assertions repeatedly made, that I have obtained for myself, my family and connections, public appointments and favours from the government, on the score of my services in this cause;

and at the same time, can affirm on my belief, that benefits of that kind, important to some who were most dear to me, might have been obtained through the interest I once possessed, if I had not, for the sake of this cause, uniformly refused so to employ it. In the colonial office, I was more than once the disinterested advocate of gentlemen in the West Indies in the professional service of government, who were oppressed, as I believed, by the local authorities, on the score of their having acted in relation to slavery upon principles like my own, and who had appealed to me on that ground; and perhaps my representations were useful to them in one or two instances, in which they obtained some compensation by a removal to other official situations, in lieu of those of which they had been unjustly deprived. But not one of them had any private connection with, or claim on me whatever; and I always took care to guard such mediation from being misconceived, by expressly disclaiming any wish for personal favour on their behalf or my own.

With thinking men, such assertions from any man who has character to lose, will be their own evidence; more especially when I invite the colonists and their partizans, of whom there are too many connected with every department of the state, to contradict me if they can.

There were cases in which regard to the interests of the very cause, for the sake of which my rule of conduct was adopted, ought perhaps to have dictated a deviation from it. Such, for instance, was the appointment of a register of slaves for Trinidad; as on the choice of the individual, might depend greatly the success of a measure which I had devised, and with laborious assiduity solicited; and which was in

my own judgment vital to the efficacy of the abolition laws : yet even in this strong case, and others of a similar kind, I abstained from recommending, lest the purity and disinterestedness of my motives should be drawn into question or doubt. The governor *pro tempore* of Trinidad therefore was left to appoint a register, though the value of the office was I think 2000*l.* a year ; and he appointed a planter of the island, who disclothed himself of his estate to comply with a restriction in the order which precluded his being an owner of slaves. I need not tell the public what kind of a choice has been made at Demerara ; for the register has thought fit to publish a report which proves him to be a most violent partizan of my opponents. I believe that in no one colony, has that office been filled by any person who was not rather an enemy, than a friend, to the principles on which I recommended the measure. Yet the colonial party has proclaimed, and I doubt not it is widely believed, that I have enriched my children and relatives by such appointments ; and even that my zeal for the system of slave registration was a mere cloak for such selfish ends. What must that cause be, the supporters of which think it can only be sustained by such an excess of calumnious falsehood ?

I am far from meaning to leave unnoticed one public appointment, a theme of loud complaint with my enemies, and which they ascribe to my undue influence with the government, the situation which one of my sons holds as counsel to the colonial department.

This, I admit, was a favour conferred on me, for which I am sincerely grateful to the noble earl, then and still secretary of state for the colonies ; the more so because it was his lordship's spontaneous gift.

No appointment in its nature could be less liable to the imputation of any abuse of government patronage ; for it was the substitution, for very valuable offices which had become nearly sinecures, of one efficient professional office, the emoluments of which were to be very moderate, not to say scanty, and to bear an exact proportion to the duties actually performed.

Let me be a little more explicit ; for it is due in justice, not only to my son, but to his noble patron, and his then colleagues in the administration. The duties of the office were to peruse and report upon all colonial acts transmitted from any of the colonies for the royal allowance ; duties which a lawyer only could perform, and without a careful intelligent performance of which, acts were likely to receive the royal assent, of a character, and in a form, highly derogatory to the honour of the crown, and mischievous to the colonies that were to be bound by them. If any reader doubts of this, let him turn to pages 23. 401-2. 327. 356. and in general to chap. 5th of this work, sec. 6.

Independently of the slave laws, the bad spirit of which it was so incumbent on the government to guard against and controul, the general character of colonial legislation is such, both in form and substance, as loudly to demand a careful review by the responsible advisers of the crown. How indeed can the case be otherwise, when in many or most of the colonies, acts are drawn up and passed, without any professional aid, by planters or other members of assembly, ignorant of the rules and principles on which they ought to be framed, and even of the antecedent laws which they are intended to alter ?

The colonial partizans seem to suppose that the acts relating to slavery, are those only to which my

son's duties relate ; but in fact they constitute a very small part of the acts, even of those colonies where slavery exists, on which the counsel has to report ; and in many cases their enactments most importantly affect local and personal interests, with which the topics of the present controversy have no connection. Private acts, for instance, are sometimes past for altering settlements of estates, and enabling guardians or trustees to dispose of the rights of infants, of married women, and persons yet unborn ; and the review of the colonial counsel, in such cases, is the chief or only security against such frauds and abuses in this delicate branch of legislation, as are here guarded against by references to the learned judges of the realm, as well as by intelligent committees of both houses of parliament. I say, it is the chief or only security ; because it is impossible to expect from the colonial secretary, or the members of the privy council, that they should find time, and possess legal information enough, to review, without such assistance, all the acts which are transmitted from our numerous colonies.

I can add of my own knowledge, that when the duties of this important office were neglected or ill performed, the grossest injustice to individuals, infants, and others, who could make no opposition, was occasionally sanctioned by the crown. I could point out one private estate act, at least, which might have been justly intitled " An act to revoke the will " of A. B., and to rob his infant and unborn devisees, " for the benefit of the tenant for life." One of the best lawyers that ever practised in the West Indies, concurred in my humble opinion, given to the promoter of that act, after his influence with the local legislature had obtained it, that he must not

rely on its provisions ; for it would be certainly disallowed by the crown. But we were mistaken. He went to England with it, and brought it back with the royal allowance ; without having found it at all a difficult work. The objections which we thought decisive, were not even noticed in the colonial counsel's report. In fact, the functions of an office thus necessary, and thus delicate and important, had been for a long time so performed, that when there was no private opposition to an act, a report in its faveur had become almost a matter of course.

But Earl Bathurst justly thought that a reformation in this respect was most desirable ; he therefore, when the office became vacant by death, looked out for a successor to it on whose industry and integrity, and other qualifications for its duties, he might rely ; and I dare venture to appeal to his lordship, to his successive assistants in office, and to all the right honorable persons by whom the fruits of my son's labours have been examined, whether his lordship could have easily made a better choice. I have never, indeed, seen his reports ; for a reason that will presently appear. But I know well the great expence of time and labour which his office, during more than ten years, has cost him ; I know also the talents he possesses ; and I have the happiness to be well assured, that he has earned the approbation and esteem of his noble patron, and his other official superiors.

The motives of his lordship in the selection, were not less honorable to him, than to the person he chose. My son had obtained the honor of being known to his Lordship, only through his professional labours in a line which was closely connected with the duties I have described. He had long diligently

employed himself in preparing a digest of the colonial laws in general, with the design of publishing it for the use of the profession, especially the practitioners at the Cockpit; and had by his Lordship's obliging permission been allowed, for that useful purpose, access to the records of all the acts which had received the royal assent, and been deposited in the colonial office.

He had consequently, and from his attendance on the hearing of plantation appeals, in which he had already obtained some practice, and from his succession, when I left the bar, to my books, notes, and other papers in that line of business, obtained considerably more knowledge of the colonial laws in general than most gentlemen, however eminent in the profession, possess.

That good will to the father, may have seconded the public motives of the choice, I am far from wishing to dispute; for the feeling would be honorable to myself, and not diminish the credit due to his Lordship. He knew me only in public life; and, however it may surprise those who have read in West Indian publications that I have unbounded influence in, and nearly govern, the colonial department, I have never to this hour had the honor of any private intercourse with his Lordship, or of once sitting at his table. To surprise them still more, I have not, during many years past, seen his Lordship's face, except in his seat in parliament during my official attendance there. To the present under-secretary, I am so total a stranger, that we should not know, or salute each other, if we met in the street; and I might truly say nearly the same of his right honorable predecessor.

But I was, at the time of this appointment, sitting

in parliament, and a zealous though feeble supporter of the government. It may be suspected, therefore, that Earl Bathurst's spontaneous choice of my son, was made, for the father's sake, as valuable to him, by the concurrence of his Lordship's colleagues, as precedent allowed. But what was the fact? My son's immediate predecessor held, in conjunction with his office, that of counsel to the home department, and had salaries or emoluments from them collectively, amounting, if I am not misinformed, to nearly or full 3000*l.* per annum. But it was justly thought by the government, that all but the efficient and necessary office of counsel to the colonial department might, without prejudice to the public, be abolished at his death; and the emoluments of the latter be reduced to what they had always been from its first existence; namely, a fee of three guineas for every act perused and reported upon, including all incidental attendances and trouble. Computing on an average of the numbers of acts transmitted during a series of years preceding, his Lordship's estimate was that the gross produce of the office would not exceed, or not much exceed 300*l.* per annum; and though that estimate has been found very considerably below the actual result, it has been, because the great subsequent increase of our colonies at the peace, and other unforeseen occurrences, chiefly of a temporary kind, have added greatly to the number of acts or local ordinances transmitted; and consequently to the extent and burthen of the official duties.

I am sure that gentlemen of the bar will admit, that such a remuneration as a fee of three guineas for perusing and reporting upon, under their professional responsibility, acts often of great compli-

cation and length, is less than they would receive for any similar business from a private client; especially when I tell them that, instead of sitting in his chambers, and receiving there, in the most convenient shape, all the instructions and information that he may find it necessary to call for, prepared for him by an intelligent solicitor, the colonial counsel has to perform, for the same fee, the solicitor's functions as well as his own, there being no such law officer in that department; and that he has consequently very often to attend for great part of the day in Downing Street, to read over the records of former acts referred to in those under his consideration; and to explore for himself further official information of various kinds, without which his duties often cannot be properly performed. He saves therefore to the public the charge which employing a solicitor, (who, as in other departments of State would probably be a gentleman of the bar,) would otherwise create; and this saving alone, is probably equal to the whole extent of his remuneration. Nor are the scanty fees which I have mentioned, even clear gain to the counsel. Clerks' hire, and all incidental expences, must be borne by himself; for not even a fee to the clerk is added, as on all private business; nor coach hire, nor that of messengers, nor a room in the colonial office for his use, nor any other allowance whatsoever.

Those who know the respectable and rapidly increasing share of practice at the chancery bar which my son, till recently, possessed, and his professional talents, will feel that a far more important deduction is to be made from the advantages of this envied office; more especially since the event has unhappily proved that the burthen of it, when added to his pri-

vate practice, was more than his constitution could sustain. He was, in consequence, obliged long to retire from the chancery bar, and could resume it only with limitations, such as may be ruinous to his once brilliant prospects.

Why then, his *only* enemies (those colonists who hate him for my sake) may be ready to reply, not resign this onerous office? Much do I wish he had done so, when my parental anxiety, at the time it was first excited by his declining health, led me to advise that measure. But he had become a husband and a father; and with a diffidence in himself, which no man who knew his talents partook of, he feared to relinquish what he had a right to regard as a certainty, and to commit *solely the future welfare of his family to prospects more inviting indeed, but in their nature somewhat precarious.* The election he has been since driven to make, is, perhaps, decisive. I might otherwise still renew the same advice; but certainly not while his enemies and mine have the malignity to impeach his integrity in office, and the assurance to demand his dismission.

They have *secrets*, it seems, in the colonial office, with which he is intrusted; and those secrets he is supposed to reveal to me, to their prejudice! Yes, they impute to me, the unutterable baseness, of seducing into official perfidy the mind of my own son!!!

To the wretches who have had the malignity to invent such a charge, reproof would be useless. To those have adopted it, I say, look well to and cleanse your own hearts; for there must have been foul corruption in them before you could credit the accusation. To the impartial public I appeal, like the unfortunate Maria Antoinetta, and say, “*Fathers, is this thing possible?*”

But if the father were such a monster, there would be, I bless God, full security in the character of the son. No man who knows him in private life,— no man who has ever heard of that amiable, upright, honourable, and pious character, which has endeared him from his earliest manhood to a large circle of the wise and good, will believe him capable of being so seduced, even by the influence of a father. He has, indeed, been the most dutiful of sons ; he never gave me pain but by his sufferings ; but he feels his paramount duties to his primeval parent, to his “ Father “ which is in heaven ;” and, if this feeling even were lost, has a delicate sense of true honour, to which our accusers, I fear, are strangers.

Let them stand forth and show themselves : I warrant them against every danger from it but that of the infamy due to false accusers,— I warrant them also even against danger from the law, except in a form which will enable them to prove their charges if they can. Or if they shrink from this manly course, let them instruct their hired libellers to translate their dark insinuations, such as are calculated to baffle the special pleader, into an express charge of violating official confidence, and they shall have the same pledge.

Of what kind these alleged secrets are, which they are so much afraid of being made known to the friends of the poor slaves, I am at a loss to conjecture. Are they any recent acts of the West India islands ? It may seem an extremity of official reserve, that these, after being published months before in the colonies, where every man may have a copy of them who chooses to pay for it, should be hidden from those who may take a humane public interest in their contents ; yet even these, have always been regarded between my

son and me, as within the pale of that sacred official confidence which belongs to his situation.

When Lord Bathurst gave him the appointment, his Lordship, knowing the interest I took in the slave laws, and knowing, I presume, also, that if new acts of that kind were transmitted, they were likely enough to be, on my views at least, objectionable; stipulated that whatever faults might be found in any acts my son might have to read and report upon, they should be communicated only to himself: and so strictly have his Lordship's injunctions in this respect been observed, that I have spent many a weary hour in compiling and revising this work, by researches in the voluminous parliamentary papers, when my son's memory might most probably have supplied the facts I wanted in a moment. I could not avail myself of that resource; because, though the laws were in print, his recollection of them would probably have been derived from his official employments.

On the same principle, I am deprived, in these labours, of all aid from a judgment by the clearness and soundness of which, I can in other cases correct the errors of my own; because it would be difficult for him to speak on such subjects without danger of directly or indirectly using the information he has officially obtained. They never, therefore, are topics of discussion between us; and if inadvertently, or from the conversation of third persons, I am led to speak of them at all in his presence, his rule is total silence.

I doubt much whether such extreme reserve, as to acts even that have been allowed by the crown, does not exceed the spirit of his noble patron's restriction; and have more than once thought of soliciting his Lordship's permission for leave to ascertain by enquiry

in the colonial office the doubts to which I have here adverted, as to the possible repeal of certain acts ; but was convinced, on reflection, that his Lordship, if apprised of my object, might regard it as making himself in some measure a party to this publication, which, even for a purpose favourable to the colonies, his delicacy would have certainly disapproved.

In thus defending my son's honour and my own from gross and malicious calumnies, let me not be understood as admitting the principle which the colonial party seems to assume. It is, if I rightly understand the meaning of these clamours, that they have a right to exclude from the confidence of government, all those who are advocates for, or friendly to, the reformations in question, and to treat them as public enemies and spies ; while they themselves enjoy that confidence without suspicion or reserve. What else can they mean, when they or their hired partizans affect to treat it as a great impropriety that a son of mine should hold a professional situation in the colonial department, merely in respect of his relationship to me ? For independently of their base insinuations against his honour, such is the position they assume. They arrogantly demand his dismission, on that score, from an office, the duties of which he has, for more than ten years past, most industriously, most ably, and most honourably fulfilled ; and to which he has made sacrifices of professional interests, and of health, such as can never I fear be repaired.

Are these gentlemen then prepared for the equal application of their own principle on both sides ? Are their own friends and adherents, the colonial proprietors, and agents, who now occupy confidential situations in the different departments of state ; is, for instance, the agent of the Bahamas, that most

zealous and indefatigable public antagonist of ours, who is also clerk to the Board of Trade, willing to resign? And are all the sons, and other near connections, of West Indians, ready to follow the example? If so, let them open a treaty on that equal basis with my son, and perhaps he will help them to the accomplishment of a purpose, of which while justice and honour characterise the British government, they must otherwise despair.

I rely on the reader's indulgence towards parental feelings, for the pardon of this long digression. My son's defence, certainly was not necessary to that of the present publication; since he has not directly or indirectly had any concern with it, or with the controversy to which it relates.

On my own behalf, enough, I trust, has been said to repel all imputation of every wrong motive of my labours, except one, of which the advocates of the slaves are generally accused, the desire of public notice and popular applause. My past conduct, ought here to be my sufficient defence. My name never appeared in the controversy, till dragged into it by the personal attacks of my opponents, on the question of the Register Bill. Though for twenty antecedent years I had abundantly laboured in the cause, as most of its parliamentary leaders, and of the yet surviving statesmen of the country, can attest, nor had there been one measure of the executive government, or of parliament, founded on the principles of the abolition, to which my efforts had not much contributed, yet so far was I from being ostentatious of these services, that they had remained unknown, even to some of the most distinguished friends of the cause. Can there be a stronger proof

of this than that, in Mr. Clarkson's History of the Abolition, my name is not to be found?

The fact is, that I have always thought, as I still do, that the success of this great and interesting cause, in its colonial as well as in its African branches, could only be accomplished through its willing adoption by the British government and legislature ; and my efforts therefore were directed, not to the excitement of popular feeling, but to the winning the opinions of statesmen and leading public characters, by information of which I knew them to stand greatly in need, as to the true nature of the colonial case.

In that view, the present work was first undertaken ; and to that end I trust it may still conduce. When the abolition seemed to have rendered it unnecessary, it was willingly relinquished : when the rejection of the Register Bill blighted my hopes of colonial reformation, the task was reluctantly resumed. The long subsequent delay in its accomplishment, is what I cannot wholly justify perhaps, even to my own heart ; yet at least, it should screen me from the charge of loving publicity, or courting popular applause. But if I had loved them too fondly before, the passion would now be cooled. Age is not the season for arduous public conflicts, especially when likely to be of long duration ; nor could the utmost triumphs that popularity ever attained, make me in my remaining years, any compensation for the loss of self-possession and repose.



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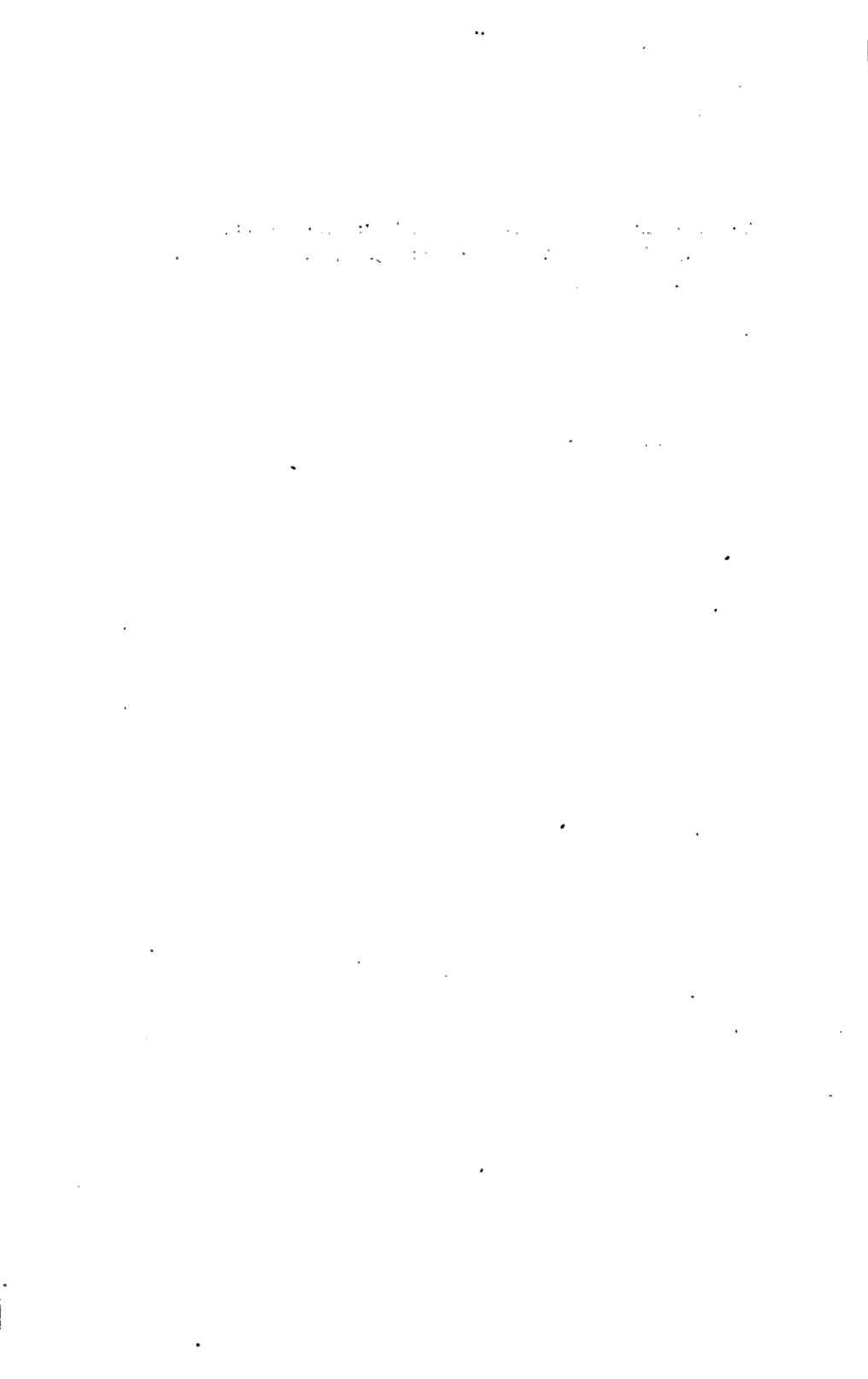
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THE STATE CALLED  
**SLAVERY,**  
IN THE  
*BRITISH WEST INDIES,*  
DELINEATED AND CONSIDERED.

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PRELIMINARY CHAPTER.

OF THE NECESSITY AND IMPORTANCE OF DESCRIBING THE  
STATE IN QUESTION, AND THE GENERAL PLAN OF THE  
WORK.

To reason first, and define afterwards, is an error which, however absurd, is common in public controversies.

The mind, naturally impatient of analysis, is eager to combine and propagate its ideas — pride also disrelishes enquiry, as a confession of ignorance, and is gratified with the praise of quick and easy discovery: men, therefore, are content with vague names and loose conceptions, even in matters of the highest importance, form judgments upon them with perfect confidence, and, avoiding that troublesome test of knowledge, a definition, rush on to reason before they understand. It is not till after many vain encounters, many falls given and received on the controversial stage, that the disputant finds out his own, or his antagonist's misapprehension, of the terms which they have long bandied in vain; and in order that the combat may have some possible termination, attempts at length to fix by definitions, the *true* subject of dispute.

How many elaborate contests respecting *ideas* among the metaphysicians, and respecting *faith* among theologians,

might have been omitted or shortened, had this error been avoided !

But the same misconduct of the reasoning powers is to be found abundantly where definition ought to be more easy, because the subject in general is less abstract, and lies more in the field of ordinary observation ; even in disputes concerning civil government, and measures of practical policy. In fact, it is in discussions of a political nature, and on subjects of national interest, that the error is peculiarly prevalent and obstinate : for on these, every man, every Englishman at least, supposes information so easily attainable, that he rarely takes the necessary pains fully to obtain it ; and thinks his ignorance, at the same time, too reproachful to be willingly admitted ; he therefore contents himself with loose and superficial ideas on the public question of the day ; and being impelled by vanity or other passions to choose his party, not only commits his judgment, but often engages as an active partisan, while yet a stranger to the true nature of the case.

It is impossible to enter on that interesting subject which I propose to discuss, without adverting to, and deplo ring in it, a strong instance of this too common abuse.

“ *Negro Slavery!* ” — What term was ever more familiar to the public ear, and yet what term is so little understood !

It has been the theme of many eloquent public speeches, of many parliamentary debates, and of much controversy at different periods in pamphlets and periodical prints. Yet, were a mind new to the subject to enquire, what is specifically and practically that state of man, about which so much has been said and written ; what is that slavery which exists in our own colonies, and was supplied to them by the African Trade, I know not in which of the many able arguments before the public an adequate answer could be found.

“ *Slavery*,” argues one man, “ is inconsistent with natural “ justice, with humanity, with Christian principles ; — it is “ productive of infinite evils, moral and political ; — it is “ unworthy of being upheld and tolerated by a liberal and “ generous people.” — “ *Slavery*,” replies another, “ is an “ ancient and very general state of man ; and many en- “ lightened moralists have allowed that it may have, in the “ rights of war, or in actual compact, a legitimate origin ; —

“ considered in its consequences it may be productive of  
“ humane effects ; — it is not prohibited by the sacred pages ;  
“ — it prevailed even among the chosen people of God. —  
“ Its tendency, in general, may indeed be bad ; the state  
“ itself is a subject of regret ; but it is a necessary evil ; and  
“ such as, without the introduction of greater evils, cannot  
“ be abolished.”

But have these opponents told us what they mutually understand by the term *Slavery* ? — By no means. — Is it, then, a term of such certain and uniform import, as to demand no definition ? The reverse is notorious. — There is not, perhaps, in the whole science of civil policy, a word which has a greater variety, or a wider range of meanings.\* The Mussulman calls himself a slave, and glories in the title. — Republican France gave the same opprobrious name to all who submitted to monarchical government ; and Englishmen, a short time before, branded with that appellation the subjects of the Bourbons. In general the term is applied by the possessors of civil liberty to designate every state of society in which that blessing is less perfect than in their own, or even less guarded by the constitution from future violation or decay. To withhold a due portion of political influence from any class of men is, in the language of controversy, to enslave them ; and to restore it is emancipation.

Nor is *domestic slavery* less diversified than *civil* or *political*. The state known by this, or synonymous appellations, in the ancient world, had many and essential varieties — the slavery of Egypt, as abundantly appears in Scripture, differed from that of Judea — the state of the Spartan helots, from that of the slaves of Athens ; — the Roman slavery from the Grecian ; and both, very widely, from that of our German ancestors.

In more modern times, the slavery, or *villeinage*, which prevailed in England and other countries, and which still

\* It might be added, that an etymologist could scarcely instance a word which has travelled so completely to the antipodes of its original meaning — *Slava* (*laus, gloria*) *Slavonian*. A national appellation, derived, probably, from those proud senses of the term, more immediately transferred it to the servitude of a conquered people. — See Gibbon's *Roman Empire*, vol. i. cap. 55. notes. In the Russian language, it still signifies glory. — *Slava Rossie*, Glory of Russia. — Saner's *Travels*, 159.

lingers in the north of Europe, was subject to important diversities. How different, for instance, the state of a man, who, with his family, is attached to the soil which he tills, so that his master cannot separate him from his home, his wife, or children, who has even a portion of the soil for his own permanent use, and whose services are limited by law; from that of a man who is the absolute personal property of his master and his heirs, who can have no home but by his licence, and is bound to serve in whatever place and manner, and to whatever extent, the lord of his human destiny may appoint;—yet men whose social situations differed, in some or all of these important distinctions, from each other, were sometimes called by the common names of villeins (*villani*), serfs, or slaves. \*

To approach our subject more nearly — the slavery even of the African race, in their native continent, is allowed to have several varieties; which both parties to the Slave Trade controversy admitted to be important. Both also agreed, though on widely opposite premises, that the state called slavery in Africa, differs greatly in a general view from that of the West Indies; and it is notorious that the slavery of the Spanish and Portuguese colonies is, in species, very distinct from that which yet exists in our own.

Yet in that now terminated controversy, and in the closely allied one which has survived it, respecting the duty of reforming and limiting the duration of negro slavery in our colonies, all these distinctions have, for the most part, been unnoticed. The apologists of the colonial system, at least, have reasoned as if every kind of slavery or bondage which now exists, or ever was known upon earth, was substantially the same with that state of man, which they have undertaken to extenuate or defend: and assuming this, they obtain enough of precedent, at least, if not of principle, for their purpose.

Their opponents, on the other hand, either through ignorance of the peculiar nature of West India slavery or conscious

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\* Men in the former state, as far as it existed in England, were called villeins *regardant*, the latter villeins *in gross*. In the laws of other European nations, the former have been better distinguished from the Servi, or Slaves, by the name of *Adscripti glebae*.

strength in the moral merits of their case, have not commonly objected to this vague proceeding, or called for definitions; but relying upon the arguments which conclude against private slavery in the abstract, have often adopted the same loose and inaccurate assumption.

It would be premature to pronounce in this place, to which side the advantage of such inaccuracy has redounded; but that it has led to much unsound inference on the one side or the other, cannot be doubted.

For example — The epistle of St Paul to Philemon has been alleged to give an implied sanction to negro slavery; because Onesimus was a slave, and he is sent back by the apostle to his master, a Christian convert, without any injunction to alter his condition. To this it has been replied, that the apostles had no commission to alter the temporal condition of mankind, or to attempt any innovation in political and civil establishments; that a direct attempt by them to abolish a relation then so widely established in the world as that between master and slave, would have occasioned great mischief, given extreme offence to the ruling powers, and, by furnishing a specious pretence for persecution, obstructed the progress of the gospel; but that Christianity, in this, as in many other cases, had provided, without express precept, a sure and inoffensive corrective of all oppressive institutions, in the gradual influence of its liberal and benignant maxims; which did, in point of fact, dissolve the bonds of slavery in most parts of the christian world\*; consequently, that the

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\* This fact, honourable to Christianity, is incontestably true; though not sufficiently known. If my time permitted, it would be easy to show, that the efforts of the clergy, and the precepts of the gospel, were the chief instruments of producing this benign revolution in every part of Europe, wherein it has yet taken place.

It may call up a salutary blush on the cheeks of Englishmen, perhaps, to learn that the children of their ancestors owed the obligation of enfranchisement to Christian principles in Ireland, so late as the twelfth century. Strange though it may appear, it is true, that our forefathers used to sell their countrymen, and even their own children to the Irish; and the port of Bristol, which lately sent out so many ships to lade human flesh in Africa, was then equally distinguished as a market for the same commodity, though of a different colour. See William of Malmesbury, in Wharton's *Anglia Sacra*, tom. ii. p. 258. But when Ireland, in the year 1172, was

case of Onesimus, and the epistle to Philemon, afford no sanction to slavery in the colonies of a Christian power.

Now here, it is assumed on the one side, and admitted on the other, that the state of Onesimus was substantially the same with that of a negro slave in the West Indies; an assumption without any evidence; and, as I trust will soon appear, grossly contrary to the fact.\* The answer, however satisfactory, therefore, was quite gratuitous; for until it is shown by something stronger than the coincidence of a vague

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afflicted with public calamities, the clergy and people of that generous nation began to reproach themselves, with the unchristian practice of purchasing and holding in slavery their fellow men; although natives of an island from which they had begun to suffer great injuries. They did not regard the crimes of a less enlightened people as any sanction for their own; and, therefore, their English slaves, though fairly paid for, were by an unanimous resolution of an assembly, held at Armagh, chiefly composed of the clergy, set at liberty.

“Super his Hiberniæ miseriis et ab Anglo periculis convenit apud Ardmacum, (Anno 1172) plurima hominum præcipuorum multitudo præcipue clericorum, qui concluserunt, eo hæc mala inficta esse Hiberniæ, quod olim Anglorum pueros a mercatoribus ad se advectos, in servitutem emerant contra jus Christianæ libertatis. Angli enim olim pauperes ut necessitatem supplerent, vel proprios filios vendere, haud educare, soliti sunt; unde cum omnium consensu, per totam Hiberniam servi Angli libere abire permisi sunt.” *Chronica Hiberniæ, or the Annals of Phil. Flatesburg in the Cottonian library.* Domitian A. xviii. 10.

This generous reformation, be it observed, did not stop with abolishing the trade. Its penitence dictated not merely future abstinence from wrong, but present restitution to the injured.

Above six hundred years after this righteous and honourable resolution, the representatives of the same country, convened, not at Armagh, but at Westminster, gave a noble testimony that Ireland was still superior to her sister island in abhorrence of the same opprobrious traffic. On Mr. Wilberforce’s first motion for the abolition of the Slave Trade, after the Union, he was supported by every Irish member present; and they formed thirty-five votes in majority of one hundred and twenty-four.

\* A West Indian will readily perceive, by his own feelings, one important distinction, indicatory of others, still more important, “*Receive him as a brother beloved.*” How destructive of the apostle’s benevolent design, how inconsistent with the rest of his conciliatory style, would have been this phrase, if Onesimus had, like a negro slave, been from his very cast, and condition, independently of his fault, an object of aversion and contempt, with his master! A vile negro, a brother! Foh! The humiliating idea would have been offensive, even in a religious metaphor, and from the pen of an apostle!

general appellation, that the state of Onesimus, and that of a West Indian slave, are in moral consideration the same ; it is false reasoning to infer the lawfulness of the one, from the supposed toleration of the other. It would be not less reasonable, to assume from the term *servant*, in the English translation, that the convert was a servant upon *wages*, by yearly contract ; and that way to answer the argument.

I do not mean to affirm that the parties to this controversy had no one common idea which they mutually represented by the term slavery. That the slave is bound to serve the master for life, and that the master has power to compel that service by corporal punishment, seem to have been properties of the state which the combatants have all agreed in admitting ; and from which they have principally reasoned. But though these are real ingredients in the slavery of the West Indies, they by no means furnish an adequate idea of that state ; and were it defined by these properties alone, it would perhaps be difficult to predicate universally of such a state, that it is, or is not, consistent with natural justice, with humanity, with policy, or Christian duty.

The ardent lovers of liberty will, I hope, pardon me. To no British palate has that rich product of our native soil, a higher flavour than to my own. But yet I am not prepared to say, that in no other country, and under no supposable circumstances, ought one man to be bound to serve another for life ; and to be liable to corporal punishment by the master, for withholding that service. Let me not be understood, however, as holding the affirmative. I simply mean to decline the discussion of the question, as perhaps, of considering difficulty ; but if not, at least, as one of a speculative kind, which nothing in the arguments I mean to offer will oblige me to decide.

There may perhaps be social institutions, of which the plan and the principles are so evidently vicious, and so irreconcilable with the great ends of human society, that they may safely be condemned in the abstract. — But so often is political foresight disappointed in the application of theory to practice, and so many compensatory and remedial effects, are made by the wise constitution of our social natures, to grow out of real evils ; that when we have to reason with a practical

purpose, concerning existing establishments, the most particular and experimental view of them will ever lead to the soundest and most satisfactory conclusions.

I shall, therefore, proceed to define the slavery of our colonies, not by one or two of its essential properties, nor by its theoretical principles alone, but by an accurate, though general description of the state, as it exists both in law and practice. I shall, also, point out some of its most ordinary, and acknowledged consequences, as far as they affect the happiness or misery of the parties; and am willing that all conclusions of a practical kind shall be suspended, till the subject of discussion is thus fully and experimentally explained.

The task which I thus undertake is not to be accomplished without such difficulty as usually attends didactic labours, when the subject of them has previously been a theme of political dispute.

During the abolition controversy in parliament, the nature and effects of slavery in the colonies were regarded by both parties as of much importance, though less perhaps than they really were, to the practical question of prohibiting the Slave Trade; and therefore much industry was used on both sides, to represent them in the way most advantageous to their respective views.

The consequence, as usual in such cases, was the production of statements, and of evidence, not less discordant than the opinions in support of which they were adduced. Accounts so various, and so contradictory, were given of the ordinary situation and treatment of negroes in the West Indies, that a candid European reader was confounded by the jarring information offered to his belief; and scarcely was able to distinguish a single fact upon which he could with confidence rely.

And hence it probably was, that the general controversy was maintained, even by some of the more intelligent disputants, in the vague manner which I have noticed. The particular slavery of the West Indies, the subject of the African trade, was found so difficult to delineate in its practical character, without engaging in collateral disputes, that abolitionists found it necessary to reason, for the most

part, from the general and abstract character of slavery, as far as the nature and effects of the state itself were thought material to their arguments.

The difficulty, however, of clearly establishing premises much more definite and particular, than have been usually admitted in this controversy, is not so great as it may at first sight appear. A close examination of the evidence brought before parliament, guided by a personal and direct knowledge of the true state of the facts in question, will enable a fair reasoner, not indeed to reconcile throughout the discordant testimony of all the witnesses, but to extract from their jarring representations, enough perhaps of undisputed truth; or, enough at least of truth which, the parties who dispute it have, by other parts of their own evidence, unwillingly confirmed.

Amidst a multitude of facts material to a right estimate of the state in question, respecting which the parties widely differed, there are some of no less importance, in which they generally agreed.—These I propose, in the first place, to select; and they will go far to furnish a correct description of colonial slavery as it exists in point of *law*; for on this part of my subject the facts were from their nature not so capable of being completely misrepresented or concealed, as those which relate to practice. It is easy to affirm in Europe, of men on the other side of the Atlantic, that they are humanely treated by the individuals who govern them, within the precincts of the plantations they cultivate; especially when almost all those who know the facts, and are in a condition to be heard, have an interest in supporting the affirmation; but not so easy wholly to deny what is attested by public acts and records, to be found even in the archives of Europe, the abject and defenceless condition in which slaves are placed by law. We have therefore endless contradictions respecting the use of the master's power; but as to its legal measure and extent, the admissions on the one side, except as to certain recent laws which I shall be obliged to animadvert upon argumentatively, are sometimes as broad as the charges on the other.

There are also several general properties and circumstances of this state, of a practical kind, which having been overlooked,

or mentioned without much animadversion, by its adversaries, have been avowed or not contested by its apologists; and some of these appear to me to be of great, nay, decisive importance.

But even in regard to the general oppression of the system, and its ordinary practical evils, much that has been strenuously disputed has been clearly proved; for there cannot be more satisfactory evidence than the admissions of an adversary's witnesses, especially when they stand also in the situation of parties accused, and when the admitted facts make against themselves, as well as against the cause they defend.—When there has been a previous clashing of testimony between the parties, and the question turns upon the comparative credit due to opposite witnesses, such admissions are peculiarly valuable, and conclusive. Hence, what seemed to be highly adverse to the cause of truth in the Slave Trade controversy, will perhaps be found to befriend it; for the witnesses produced on the side of the colonies were, for the most part, not only zealous partizans of the system they described, but interested, both by fortune and character, in its defence.

The evidence to which I shall chiefly resort, that which was taken in the course of enquiries on the subject, by parliament and the executive government, consists chiefly of accounts given by persons of this description; and of a species of evidence, which, when it tends to condemn the colonial system, is, if possible, still more conclusive; the answers solemnly given by the West India legislatures, and their public agents, to questions proposed by the Privy Council. What faith was due to such testimony, when it went to contradict the charges of abolitionists, or the testimony adduced by them, I shall not here stop to enquire—its authority on that side will be better estimated, when we have seen a little of its particular style and character. But this may be safely affirmed, that better evidence cannot be had or desired, as to the facts that were in issue between the abolitionists and the colonial party, when its obvious effect was to substantiate the charges of the former; or to disprove the defence set up on the part of the latter.

It is on such evidence that I shall chiefly rely; nor shall I assume the truth of any statement adverse to the colonial

system that has ever been controverted, however unimpeachable the testimony may be on which it stands, until I have shown it to have been directly or indirectly confirmed by the same decisive evidence, the concessions of the colonists themselves.

Of course, upon this plan, my description of West India bondage will be less copious and particular than a zealous enemy of the system might possibly desire. It will comprise chiefly those features which, being the most prominent and general, were least capable of being effectually disguised. But these will, I trust, be found sufficient to satisfy reasoning minds, and to such only I wish to address myself. I desire not to inflame popular indignation, by exhibiting fully all the ordinary oppressions of the system; much less by pointing out individual and occasional abuses. My aim is not to show that negro slavery is a state as bad as it might truly be stated to be; but that it is too bad to be fairly justified or excused; and too bad to be tolerated by a Christian legislature without inevitable necessity, or one moment longer than such necessity can be clearly shown to exist.

The state may, both in a legal and practical view, be usefully illustrated by comparison with institutions of the same name, which have elsewhere been known in ancient or modern times. Comparisons of this kind, therefore, shall occasionally be interspersed under each division of my subject.

The description, in every particular that has been, or is likely to be, a subject of controversy, shall be supported, in point of evidence, as we proceed; and as the repositories I draw from, are not within the reach of every reader, my proofs shall in general be adduced, not by reference only, but by all necessary extracts. In order to avoid a wearisome iteration of recourse to an appendix, by those readers to whose minds the subject is not familiar enough to prevent doubts arising in them on the less disputable facts, these extracts shall be generally subjoined to the text.—In cases where doubt may be expected to be more general, and the points of peculiar importance, they shall be sometimes inserted in the text itself. By these means the work will be more formidable in its bulk to the eye; but I hope, may be read with greater facility, and prove more extensively useful.

The state of the enslaved negroes in the new world, to whatever nation their masters belong, is, for the most part, of one uniform kind. There are, however, some important diversities: and, therefore, the following account of the state, is to be considered as wholly applicable to the slavery of the British West Indies alone. Sometimes, indeed, I shall notice distinctions that are to be found in the institutions or practices of foreign colonies; but only for purposes of illustration.

There are varieties also in the laws and customs of the different British islands, separately considered, which constitute some shades of difference in the conditions of their respective slaves; these, whenever they are of any importance, shall be distinguished: but in general, there is a close similitude between the interior systems of all our sugar colonies: and therefore where no distinction is made in the following pages, whatever is affirmed of the state in question is to be understood as applicable to them all; or as subject, at least, to no material exceptions.

Those colonies in which the great staple of sugar is not cultivated, are not, as will be seen from the nature of the facts which relate to the practical system, meant to be comprised generally in that part of our subject. But in the Bahamas, and Bermuda, though of this description, slavery is in point of law nearly the same as in the sugar colonies; and as this fact, in connection with others, will lead to some important consequences, it shall be established, by comprising the slave laws of these islands in the general account.

The proposed delineation may be conveniently divided into two principal branches.

First.—The slavery of our colonies may be regarded theoretically, as a legal institution.

Secondly.—It may be described in its practical nature and effects.

A slave is in truth subject to two different laws; that which is made for his government or protection by the body politic, to which, as a dependant on the master, he belongs; and that which is given to him, by the private authority of the master himself: and of these, the latter is by far the most important to his destiny. But as the law of the master is pro-

mulgated chiefly in the actual use of his authority, and the code of the plantation can be read alone in the ordinary treatment of the slaves, the first division will comprise the municipal law of slavery; and the exercise of the master's governing power, will naturally constitute the chief subject of the second. Nevertheless, as laws are often best explained, and more fairly appreciated by their practical exposition and use, I do not propose so rigid an adherence to this method, as to preclude myself from noticing occasionally under the first division, the ordinary operation and effects of such public laws as are peculiar to the slavery of the colonies.

## BOOK I.

### OF THE SLAVERY OF OUR COLONIES CONSIDERED AS A LEGAL INSTITUTION.

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#### CHAPTER I.

##### OF THE ORIGIN AND AUTHORITY OF THE COLONIAL SLAVE LAWS IN GENERAL.

**S**LAVERY was introduced and established in our colonies in a manner very different from that which is commonly supposed. It was not there originally derived from, nor is it yet expressly sanctioned or defined by any positive laws; — it stands, for the most part, on the authority of custom alone.

The Assemblies have often, indeed, in their acts, recognized slavery as an existing institution; and have, by directing or regulating the sale of slaves, and by numerous other provisions, treated them as subjects of property. But if the books of colonial acts were resorted to for information as to the legal origin of this state, the rights which it gives to the master, or the duties and incapacities which it imposes upon the slave, no satisfaction on these important heads would be found.

We have often heard from the agents and advocates of the colonies, of their system being sanctioned by parliament; yet our statutes will be found guiltless of having created the slavery in question, or sanctioned any of those harsh properties and incidents which distinguish it from other states known by the same odious name.

The bringing labourers or negroes from Africa was certainly permitted, and even encouraged, by parliament; and in the more modern acts there was no reserve in respect to the condition of these exiles, as far as a vague name could define it; for the commerce in *Slaves, eo nomine*, has been expressly recognized and regulated. But that these foreigners

shall, on their arrival in a colony where British law and liberty are established, be sold into, and perpetually retained in slavery, and that the same state shall attach on their offspring, though born under the king's allegiance, has never been enacted by parliament; much less has it been declared what particular species of slavery shall be their lot, or whether it shall be subject to any, and what, legal limitations.

Parliament seems all along to have supposed that there was some known local law in the colonies, distinct from the law of England, which had introduced and defined the state in question. The colonial assemblies, on the other hand, prudently forbore to legislate upon a subject of such delicacy; considering, no doubt, that their acts must receive the royal assent, and previously undergo the review of a British Privy Council. They found a condition of man, called slavery, already established by custom in their own and neighbouring islands; and being all slave-masters in right of that custom, before they became legislators, did not trouble themselves with enquiries into the legitimacy or extent of the private authority, which they already in fact possessed.

This custom, though it sprang from the imaginations of the most illiterate, as well as most worthless, of mankind, had two qualities of the sublime — it was terrible, and it was simple. Its single, but comprehensive idea was, that "*the slave is the absolute property of the master;*" from which the Buccaneers, though no expert logicians, had clearly deduced the consequence that they might treat their negroes in all respects as they pleased; for "*a man,*" they naturally argued, "*may do what he will with his own.*"

That the lawgivers of our colonies have since tacitly recognized this principle as generally true, is manifest in almost every act they have passed, of which the relation of master and slave is the subject; for, in regard to the power of the former, they have made no enabling, though of late years a few restraining, statutes; and *quod non prohibitum licitum est*, is a maxim that speaks in almost every one of the latter. — Is the murder, for instance, or mutilation of a slave, to be made a misdemeanor, — they do not treat it as a previous crime in law, or enact that it shall cease to be felony; but they prohibit it under a pecuniary penalty.

Mr. Reeves, in the Preface to his Digest of the Colonial Slave Laws, annexed to the Privy Council Report, has clearly distinguished this fundamental principle of all the Insular Codes. "The leading idea," he remarks, "in the negro system of jurisprudence, is that which was first in the mind of those most interested in its formation; namely, that negroes were *property*;" they were not regarded as rational or sentient beings, capable of rights, but as chattels, the civil character of which was absorbed in the dominion of the owner.\*

When the English lawyer considers that the law of the mother country is the general *substratum* of the colonial codes; and that when unaltered by acts of assembly, or acts of parliament expressly binding the colonies, it is the only rule to which they can appeal for the rights of persons, or of things, he will, perhaps, wonder at the slender and doubtful foundation upon which the extreme authority of the master has hitherto been suffered to stand. For, what is the legal force of custom in these recently settled countries? Its duration even in our oldest colonies, is far short of what is necessary to found a prescriptive right. The case may appear still stranger when it is known that the same assemblies which have left their slave system to rest upon the loose basis of brief usage and popular opinion, have not scrupled to pass declaratory laws affirming, correspondently to the sense of Westminster Hall, that the law of England is in force there, except where altered by their own acts, or by acts of parliament, expressly binding them; and that *all customs to the contrary are void*; and this without any exception as to slavery.†

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\* This leading and fundamental idea is by no means yet worn out, as will be evident when we come to consider the new laws which Mr. Reeves supposes to have, as in a small and insignificant degree they certainly have, departed from that principle. An ordinary argument with a low-bred Creole, when you would expostulate with him on the treatment of his slave, is, "May I not do as I will with *my own*? Who has a right to tell me how I shall use *my own property*?"

† See Act of the Leeward Charibee Islands of 1705—No. 51. in the printed book, Sec. 2.

"It is hereby declared, &c. that the common law of England, as far as it stands unaltered by any *written law* of these islands, or some of them confirmed by your Majesty, &c. or by some act or acts of parliament ex-

After committing implicitly for near a century and a half the fate of this helpless order of men to the colonial assemblies, careless by what rules they were governed or protected, the parliament and executive government of this country at length, in the year 1788, began to inquire of those assemblies what their slave laws actually were.

The result was extremely curious; for it must be manifest to an attentive reader of the information collected on this important subject in the Reports of the Privy Council and the House of Commons, and will abundantly appear in the following sheets, that the colonial legislators were either unable or unwilling to give any intelligible or consistent account of their own servile codes. They were found strangely at variance with each other, and with themselves, even in fundamental principles.

This disagreement is indeed chiefly to be found in the answers to certain queries, which relate to the legal protection of slaves from cruel treatment by the master; a subject on which it must certainly have been unpleasant to the assemblies, to be obliged to avow their own extreme negligence: but as an expedient to which two or three of them resorted tends to displace the whole basis of their slave system, and to leave us, in the following inquiry, no certain principles to rely on, it may be proper to anticipate in an instance or two the specific subject of a subsequent chapter, in order to repel this extraordinary attempt.

Unable to produce satisfactory laws of their own, on a subject which so strongly called for legislation, they referred to the laws of this country; and boldly maintained that the protection given by our laws to British subjects, or at least, that which they afforded to English *slaves*, while such characters existed in this island, belonged to the enslaved negroes. They ventured distinctly to assert, that the English law of *villeinage*, was that which regulated the authority of the master, and the

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" tending to these islands, is in force in each of these your Majesty's Lee-  
" ward Charibbee Islands; and is the certain rule whereby the rights and  
" properties of your Majesty's good subjects inhabiting these islands are  
" and ought to be determined; and that all customs, or pretended customs  
" or usages contradictory thereto, are illegal, null, and void."

legal protection of the slave; or at least, that the law of the islands, in these points, resembled that ancient institution. (A)

How extravagant this representation was, will be best seen in the course of the following details. At present it may suffice partially to expose it, by comparing the two systems in one or two of their features.

The English lord could not delegate to any one his power of arbitrary correction\*; the West India planter may, and universally does delegate it, to managers, overseers, and every subordinate agent, as well as to lessees, and all other persons claiming title under him. The charge of a negro's person, or the superintendance of his labours, always implies the right of whipping him at discretion.† (B)

Murder and mayhem were punishable by the English law as severely when the villein of the offender, as when a free man was the sufferer ‡; but in some of our colonies, at the time when these answers were given, the offence of murder itself, if perpetrated on a slave, subjected the murderer

\* 9 Coke Rep. 76. A.

† Sad and terrible are the effects of this distinction on the destiny of these hapless beings; but I shall find a fitter place for the important remarks that it demands.

‡ Coke Litt. title Villeinage, Sect. 189 to 194.

### EVIDENCE.

(A) The then agent for St. Christopher and Grenada, said, "I think that the power which a master has over his slave, in the Islands of Grenada and St. Christopher (and I believe generally in all the Islands,) is that which a lord had formerly over his villein in this country."

Privy Council Report on the Slave Trade, Part III. title Grenada, and St. Christopher, A. No. 1.

Answer of the Council and Assembly of Antigua. "In Antigua, the power which masters have over their slaves, is not unlimited, but something resembles the power which lords exercised over their vassals, when the tenure of pure villeinage prevailed."

Same Report, Part III. title Antigua, A. No. 1.

(B) See their *Meliorating Acts*, in which this general right of the manager overseer, &c. is incidentally recognized in the frivolous limitation of it to 39 lashes with the cart-whip at one time, or for one offence. Grenada Act, Papers printed by order of the House of Commons in 1804, title Grenada, 7 F. Clause 5, and various other acts.

only to a small pecuniary fine; and as to mayhem, or mutilation, the late meliorating laws even have, for the most part, treated such enormities, however deliberate and wanton, as mere misdemeanors; though they are, in the same islands, felonies, if the sufferer be a free subject; and have limited within narrow bounds, the fines or terms of imprisonment which the courts may in such cases inflict. (C)

What is far more important, when the villein had civil rights, whether against strangers of a free condition, or the lord himself, he also had legal remedies. — He might maintain all manner of actions, as fully as a free person, against every man but his lord, even against a man who beat him by the lord's order; and in some cases against the lord himself. He was also a competent prosecutor in criminal cases, and might in some cases appeal

#### EVIDENCE.

(C) "Be it enacted, &c.—That if any white, or free person, shall be convicted of maiming, defacing, or mutilating, or cruelly torturing any Slave, he shall be imprisoned for a term not exceeding three months, or fined in any sum not exceeding 100l. current money of this island." (57L 2s. 10*d.* sterling.) (*Meliorating Act of Dominica*, passed in 1788—revived and made perpetual in 1793. Clause 20. Papers of 1804. House of Commons, title *Dominica*, E. 15.)

See also the *Grenada Meliorating Act*, Clause 14, and the *Bahama Act*, Clause 7, in the same collection; and the *Consolidation Slave Act of Jamaica*, Sect. 10. in the second volume of Mr. Edwards's *History of the West Indies*.

In the islands forming the late Government of the Leeward Islands, the law in this respect was put upon a right footing, as to the declaratory rule. The *remedy*, as we shall presently see, is still every where deplorably defective.—But even this theoretic reformation in the Leeward Islands did not take place till 1797 and 1798; ten years after the assertions which I am refuting were made. Indeed, if I am not misinformed, the authority of the General Assembly, by which this Meliorating Act was made, has since been disputed in some, at least, of those islands.

(See Papers of 1804, Ho. of Com. title *Leeward Islands*, H. 9. and H. 15.)

In Antigua, the legislature of which island gave this reference to the law of villeinage in 1788, the murder of a slave continued till Dec. 28, 1797, punishable only by a fine of from 100l. to 300l.; and castration, or other dismemberment, by a fine of from 20l. to 100l. current money.

(See the same Papers, H. 9.)

his lord.\* But the negro slave can maintain no action whatever against any man; and can in no case be received as a witness, except on criminal prosecutions against persons of his own condition; and the Assemblies themselves admit that this incapacity generally frustrates the effect of laws made for the protection of slaves against the master, or other free persons, by whom they may be injured and oppressed. (D)

Important though these distinctions between negro slavery and villeinage will be felt to be, and amply sufficient to refute the strange pretence of an identity or similitude between them in the points that were in question, the state of the negro will be hereafter shewn to be, in many points not less essential, deplorably below that of the English villein; though the latter was probably the most unfortunate of European bondmen during the dark ages of feudal despotism. †

Perhaps it is a right, though large indulgence, to certain witnesses, examined by the Privy Council and Parliament on the same occasion, not to take the natural import of their language in other parts of the statements on which I am commenting,

\* Coke Litt. Villeinage, Sect. 189, 190, 191, &c. and 208. Brook's Abrid. Villen. p. 69, &c.

† See Lord Littleton's Life of Henry II. Book ii. vol. iii.

#### EVIDENCE.

(D) Answer of both Houses of the Legislature of Grenada to the enquiries of the Privy Council.—“ The only difficulty that has been found “ in putting an effectual stop to such instances, (cases of gross and wanton “ cruelty towards slaves,) is that of bringing home the proof of the fact “ against the delinquent, by satisfactory evidence: those who are capable “ of the guilt being in general artful enough to prevent any but slaves being “ witnesses of the fact; and the danger of admitting the testimony of “ slaves to affect the life or fortune of a free person, is so obvious, that such “ testimony has been uniformly held inadmissible in all countries where “ slavery has been in use.” (These legislators, as I shall hereafter show, were very bad historians). They give this as their defence for not admitting by law the testimony of slaves in such cases; and add, “ as the matter “ stands, though we hope the instances in this island are at this day not “ frequent, yet it must be admitted with regret, that the persons prosecuted, “ and who certainly were guilty, have escaped for want of legal proof.”

Privy Council Report, Part III. title Grenada and St. Christopher,  
A. No. 4. See also other authorities hereinafter cited.

as expressive of their real meaning. — When they spoke of negro slaves being *protected by the laws of England*, perhaps they still meant to the extent in which *villeins* were protected by it, while we had any men of that condition remaining; in which most narrow sense even the assertion has been sufficiently refuted; and yet when I find gentlemen of the first character and intelligence, holding such vague language, I must say their incorrectness is very surprising — it would at least create surprise, if found any where but in that very extraordinary body of evidence. (E)

That men who cannot sue or prosecute for any injury that they may sustain, however atrocious, or give evidence of the fact, even at the suit of the Crown; who are liable to be imprisoned and whipped, (the frivolous restriction to a given number of lashes *at one time* excepted,) at the discretion of the master, his delegate, or the deputy of his delegate, without the pretence of any legal controul; and who may be still mutilated and dismembered in some islands with no greater danger than that of paying, upon a most improbable conviction, a small fine

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#### EVIDENCE.

(E) Q. "What was the legal protection generally understood to be enjoyed by the slave?

A. "The legal protection which they enjoyed in the two islands I have been speaking of, (St. Christopher and Nevis,) was that of the laws of England, as I do not recollect any colonial laws in the island of Nevis which interfered with those of the mother country in that respect."

Q. "Do you conceive it to have been the general opinion that the English law extended to slaves in the islands of Nevis and St. Christopher?"

A. "I apprehend it was the general opinion, because prosecutions have been carried on under the laws of England;" — Evidence of an eminent planter and West India merchant, Commons Report of Evidence on the Slave Trade in 1790, p. 272. (On the subject of these prosecutions I promise the reader ample satisfaction hereafter.)

Q. "Was it then generally understood before the passing of this law, (the Meliorating Act of Grenada,) and from the time of your first residing in Grenada (1763) that the slave was *protected by the common law of Great Britain*?"

A. "It certainly was so understood and practised." — Evidence of another eminent planter, same Report, p. 168, 169.

If these witnesses were not mistaken, it is manifest that the new Acts of Assembly have greatly deteriorated, instead of amending, the legal condition of the slaves.

or suffering a short imprisonment ; that such men, I say, are *protected by the common law of England*, is a proposition so extravagant, that one is driven to find another meaning for the respectable witnesses, in spite of the plain import of the terms they use.

“ This island,” said the council and assembly of Grenada, “ has no *local law* by which the punishment for murder, man-slaughter or other killing, for maiming, or other act of cruelty, is any *wise diminished on account of the subject murdered, or ill treated, being a slave*.—*Their crimes are therefore punished in the ordinary course of justice*,” &c. \*

Here the same grossly erroneous principle is plainly implied, as that on which a witness, just cited, relied, when he inferred that slaves were protected by the laws of England, from the absence of local laws ; a principle which, if admitted, would evidently subvert the whole fabric of West India slavery, except where the master’s authority might accidentally find a prop by implication, in the acts which affect to restrain it ; for it would not be possible, I believe, to produce, in the whole range of the Antilles, a written law which expressly gives to the master any one of those formidable powers which he is allowed to possess and exercise ; or which imposes on the slave his acknowledged civil disabilities.

No act of any of the islands, for instance, says that the master, or his manager, or overseer, may whip or imprison a slave at his discretion ; but does the law of England, therefore, give the cart-whipped or imprisoned slave his action against the overseer, or master, or subject them to an indictment ? We have seen that even the law of villeinage, supposing this to be intended by the assembly, would not preclude these remedies ; not at least against the manager or overseer.

Besides, if English law applies to this subject, how would the master, for any purpose, be able, according to the law of villeinage, to substantiate his title to a negro slave. A villein could only be claimed by prescription, or by his own confession, or that of his ancestors, in a Court of Record †, and it

\* Privy Council Report, Part III. title Grenada and Saint Christopher, A. No 5.

† Litt. Sect. 175—170, &c.

would, I presume, be a little difficult to prove a negro's pedigree in a court of justice; much more the immemorial seizin of him and his ancestors, by the master and those under whom he claims. Nor would the difficulty end here; for the planter claims his native slaves, in right of his property in the *mother*, — the rule in the colonies being *partus sequitur ventrem*; whereas by the law of villeinage, the rule, as to the condition of the issue, was *partus sequitur patrem*.\* By the application of this law, every mulatto would be enfranchised; since the paternal ancestor, except in a case which it would be shocking to suppose, must have been a white, and consequently a free man. But the mixed race, and even the negroes also, would all be free by another title of a singular kind; that of their illegitimate birth; for, by the law of villeinage, natural children could not be slaves, by reason of their parentage†, and the planters tell us too truly, that few, if any, of their slaves are lawfully married.

Considering these, and other strange consequences, of supposing that the ancient or modern law of England supplies rules for regulating the relation of master and slave in the West Indies, it must appear inexplicable to most of my readers, that respectable witnesses, and even legislative assemblies, should hazard the assertion of such a principle.

Far different was the avowed sense of the Assemblies before the Slave Trade controversy made it inconvenient to disclose the true nature of colonial slavery. In the very last act, for instance, to which I have referred, that of Antigua, a recital of a former act occurs, which shows, in the strongest light, that the law of England was not, in the Charibbee islands, understood to be applicable to slaves, even in the case of murder itself. (F)

\* Co. Litt. 123.

† Ibid.

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#### EVIDENCE.

(F) " And whereas several cruel persons, to gratify their own humours, " against the laws of God and humanity, frequently kill, destroy, or dis- " member their own and other person's slaves, and have hitherto gone " unpunished, because it is inconsistent with the constitution and govern- " ment of this island, and would be too great a countenance and en-

It is very important that the reader should be taught to estimate aright the credit due to colonial representations on such subjects, otherwise it would have been wasting time to expose this extreme mis-statement, when its refutation might be shown from the subsequent answers of the same witnesses, and the same public bodies themselves; and more clearly, if possible, by cotemporary acts of assembly. In every clause of the Grenada Meliorating Act, passed in the same year, an existing state in the subjects of it is recognised, or plainly supposed, the lineaments of which are neither to be found in their own positive institutions, nor in the ancient villeinage of England \*; and they who had asserted in 1788, that slaves when "ill-treated" by the master, had the full protection of the English law, felt it to be a melioration of their state so late, as 1797, to guard them by trifling pecuniary penalties from dismemberment or mutilation.†

In spite, then, of these attempts to lessen the discredit of the Slave code, at the expence of its consistency, and its legal authority, the law of slavery is to be found only in the customs of the colonies, and in the acts of their assemblies; but chiefly in the former.

By their customs, I mean not such as can be admitted, upon the principles of English law, to have a legitimate force; for of these, it results from a former remark, that none can exist in our islands; nor do I, on the other hand, mean to treat as legal, usages which their own courts would reject as no part of the local code; but the law of slavery is

\* Act of 1788. Appendix to Privy Council Report, p. 5.

† Papers of 1804, title Grenada, F. 11.

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"encouragement to slaves to resist white persons, to set slaves so far upon  
 "an equality with the free inhabitants, as to try those that kill them, for  
 "their lives; nor is it known or practised in any of the Charibbee  
 "islands, that any free person killing a slave is triable for his life, but par-  
 "ticular laws, (of which we are not provided,) are made in several of  
 "them, for punishing the aforesaid crimes," &c. Recital of act of 1723, in  
 the Repealing Act of 1797, (Papers printed in 1804, by the House of Com-  
 mons, title Antigua, H. 9. hereafter to be cited, as "Papers of 1804.") It  
 is just to remark that no English island is now more humane or liberal than  
 Antigua in its slave laws.

principally to be found, in those principles and maxims, which without any positive law, are evidenced by general practice, and are received in their courts as legal.

The acts of assembly which relate to this important subject, are of two different descriptions, widely distinct from each other both in time and character; the acts in force, prior to the agitation in this country of questions respecting the Slave Trade, and the acts passed subsequent to that period; in other words, those acts which were in force prior to 1788; and those which have been enacted in, or subsequent to that year.—The former contain very many penal enactments, for the punishment of slaves; but very few provisions indeed for their benefit or protection. The latter, on the contrary, profess in many points to improve their situation; and hence, for the convenience of general description, I call these, the "*meliorating acts*."

Another and more important difference, however, distinguishes these two branches of the written slave code from each other; and I must propound it here, though its demonstration must for the present be deferred. The old acts are, for the most part, capable of being enforced, and are executed; the meliorating acts are, with the exception of a few unimportant clauses, absolutely incapable of being enforced, and are in practice a dead letter.

From the nature of this last diversity, I find myself compelled to treat of these two classes of laws distinctly, and with some diversity of method; for should I blend and confound their different provisions, in statement or observation, my account of the written law of the colonies might, indeed, furnish some tolerably correct idea of it, as it stands upon paper; but would mislead the reader in many important points, as to its practical nature and effects.

I propose, therefore, first, to state the *lex non scripta*, and the acts of the assemblies, as the latter existed in 1788; noticing under each rule, as we proceed, any amendment made, or professed to be made, by subsequent laws, so far as the latest parliamentary information on the subject extends, in order that the reader may be fairly apprised of every real or ostensible improvement; but requesting that his opinion may be suspended for a while, as to the efficacy of the new

provisions. Afterwards I propose to devote a distinct chapter to the consideration of the meliorating acts in general; which, from the similarity of their texture, will, I hope, be no very tedious work; and in which I trust to be able to prove conclusively, both the utter inadequacy of those acts to enforce the trivial reformations which they profess to introduce, and the general neglect of them in practice from their first promulgation.

## CHAPTER II.

### OF THE PERSONS WHO ARE SUBJECT TO SLAVERY IN OUR COLONIES.

SLAVERY in the West Indies is peculiar to negroes, or the mixed issue of negroes and Europeans within such a degree of propinquity to the sable stock, as distinguishes them, in some degree, in their features and complexions, from the European race.

In Jamaica, the condition ceases, by express law, to attach upon the issue at the fourth degree of distance from a negro ancestor.\* In other islands, the written law is silent on this head; but by established custom, the *quadroons*, or *mestizos*, so they call the second and third degrees, are rarely seen in a state of slavery; and never employed in any but domestic offices.—Even *mulattoes* are very seldom destined to the labours of the field.—Of the agricultural slaves therefore, who will, in a practical view, be the chief subjects of this enquiry, it might be said with tolerable correctness that they are exclusively negroes.

The masters, on the other hand, are chiefly of the European race and complexion; and though there are free persons, and even owners of Slaves, of African lineage, they labour under legal disabilities which constitute them an inferior order in society, and are regarded by their white fellow-subjects with great contempt†: an extreme corporeal difference, therefore, marks in general the distinction between freedom and slavery; and the exterior appearance of the slave is, from its ordinary

\* Edwards's West Indies, Book iv. cap. 1.

† *Ibid.*—“The lowest white person considers himself as greatly superior to the richest and best educated free man of colour, will disdain to associate with a person of that description, &c. Their spirits seem to sink under the consciousness of their condition,” &c. Many authorities might be cited to the same effect; but no characteristic of West Indian society is less disputable, and I do not know that it has ever been denied.

association with his degraded state, a badge of infamy or vileness. These are circumstances peculiar to the slavery of the new world; and it would argue a very slight knowledge of the human heart, to doubt of their unhappy practical effect. Where a man depends so absolutely on the will of another as a slave on that of his master, whatever tends to diminish sympathy in the breast of the superior, must obviously also tend to embitter the lot of the dependent.

The case is still more unfortunate. The colonial slave is not only distinguished from the privileged class by a corporeal difference the most striking that is to be found among all the varieties of the human race, but his personal peculiarities are such as constitute, to the taste of Europeans, loathsomeness and deformity. Nor is it through the eye alone, that disgust is received by the master, and opposed in his mind to that sympathy and pity which the helpless, dependent state of his bondman ought to inspire.—The negro is not more opposite to his white-skinned lord in complexion, than in manners, and intellectual attainments—the one is degraded by all the ignorance and rudeness of his native Africa; the other elevated, by the refinements in arts and manners, at least, if not also by the science, of Europe. The negro, indeed, and the master also, may be somewhat altered in these respects by a West Indian education or residence; but the change, though it may have varied, and in some points diminished, the actual contrast, has not softened the repulsive effect.—The African has gained only the craft, with the cowardice and vileness of slavery (G); the master may be worse taught and less polished, but is certainly not more humble, nor less disdainful of his abject bondman, from having been educated between the tropics, and accustomed to be served by slaves.

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#### EVIDENCE. .

(G) “ They conceive the seasoned slave, though more expert and sensible, “ is more likely to be artful and ill-disposed,” &c.—(Evidence of Sir A. W. Byam; in the Report of the Committee of the House of Commons on the Slave Trade, page 114.)—N. B. This volume will in future be quoted thus: (Rep. Com. Com.)

“ —*Il ne faut donc pas s'étonner que les negres en devenant nos esclaves, “ contractent une infinité de vices qu'ils n'avaient pas dans l'état naturel,”* &c.—Considerations sur la Colonie de St. Domingue, Discours iii.

Here, as well as in the corporeal distinction, the modern colonial slavery stands, I believe, without a parallel. The slaves of antiquity were often more learned, and more polished, than their masters. The Romans were instructed in science, and the fine arts, by their Grecian captives; and, generally speaking, the more polished nations have fallen under the yoke of less civilized enemies. Since, therefore, subjugation in war was the ordinary source of private bondage, the intellectual superiority must have been generally on the side of the slaves. Upon the progressive subversion of the Roman empire by its northern enemies, this consequence must every where have ensued. The victors in general were so inferior in civilization to the vanquished, that the slaves whom they found in the conquered countries, as well as the freemen whom they reduced to servitude, must have been far superior in knowledge and refinement to their masters. Even the courtiers of Alaric, must have been barbarians, when compared to the bondmen of Honorius.

In the middle ages, when slavery or villeinage became pretty general through Europe, the case must have been originally the same; for the state owed its ordinary rise to a similar cause.\* In process of time, indeed, the distinction disappeared; the same night of ignorance enveloped the vassals and their lords; and when science rose again, its beams naturally first fell upon those who were most exalted in point of station and fortune; but before this new-born disparity could be materially felt, the still benigner rays of Christianity, and the natural sympathies between masters and slaves of the same race and country, had every where greatly relaxed that stern relation; and in many places melted it down into stipendiary service.

I know not, therefore, where to look for a precedent of such extreme intellectual inferiority in the slave to the lord of his human destiny, as has prevailed in the West Indies. And, indeed, to make it as perfect, and as permanent, as it unhappily has been there, extraordinary causes, equally unfortunate with those which have long operated in our colonies, must have concurred. There is such a contagion in example, and

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\* Gibbon's *Roman Empire*, vol. vi. cap. 58.

such activity in the commerce of ideas, that civil distinctions, however wide, will not long prevent the native members of the same society, when permanently united, in the same place, from assimilating, in some degree, to each other, in their manners and intellectual character. The extremes of civilization and barbarism cannot, therefore, long continue in such a society, to distinguish the different ranks; but the minority will gradually approximate to the character of the greater number, whether in the way of deterioration or improvement. Thus, in China, the Tartar conquerors were, in respect of manners, soon melted into the general mass — and thus, in some parts of Spanish America, where there has long been no Slave Trade, and the colonists look to no home in Europe, the difference between the African and European character is nearly obliterated; the two races are, in great measure, blended together; and have formed a creolian medium, not only in complexion, but in intellect and manners.

The vices engendered by slavery, form a topic that belongs not properly to this part of my subject, nor are they peculiar to the slavery of the West Indies; but in one important view they aggravate the bad tendency of the legal distinction which we are now considering. As the African race only can be enslaved, the abject and vicious character known to be commonly produced by the state itself, is naturally associated and confounded, in the imaginations of the superior class, with the disgusting exterior of that enslaved people, as if it were generated rather by their blood, than by their degraded and brutalized condition; though if we may rely on the best authorities, there is not on earth an uncivilized people chargeable with fewer vices, or possessed of a larger share of amiable qualities, than negroes in their native land. That visible images, when long used in association with any passion or sentiment, have the power, not only of exciting it, but of increasing its force, is a truth which will be readily admitted. But when a subject of moral aversion and disgust has any supposed natural connexion with the visible form under which we are accustomed to view it, this effect of association in our ideas is the stronger; and as amiable qualities are proverbially more pleasing, when found in a beautiful person, “ *Gratior et pulchro veniens in corpore*

*virtus* ;" so vice becomes more odious, when coupled with bodily deformity. One of the greatest masters of nature well understood this truth, when he not only clothed the horrible malignity and ingratitude of his Caliban with a person equally detestable ; but made the generous Prospero continually reproach him with his personal blemishes.

Can it be doubted then, that vices inseparable from slavery, excite the more disgust from the unsightly exterior under which they are always discerned ? that the slave is more hated and despised, because he is a negro ; and the negro more repulsive, because he is a slave ? \*

This peculiarity of West Indian bondage deserves much more attention than it has hitherto obtained. The wrong done to the poor African is embittered in its consequences, by the same distinction that aggravates its reproach, — the entire exemption from personal slavery of the white colonists themselves, by whom the state is imposed. While this peculiarity defrauds him of much natural sympathy in the breast of the master, it gives to his intellectual and moral degradation, though the necessary effect of slavery grafted upon barbarism, the air of native inferiority and defect.

If it be asked, then why are free negroes and mulattoes said

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\* A consequence not so obvious, but equally true, is that the odium and contempt, excited by the civil and moral degradation, is actually transferred to the bodily peculiarity of the slave. It may, perhaps, seem a minute remark, but to reflecting minds may suggest important considerations, that the term *slave* is not in the West Indies, as in other countries where private bondage has prevailed, a term of obloquy, or colloquial reproach ; but the bodily designation is substituted for such purposes in its stead. Amidst all the reviling epithets, used in anger towards these poor bondmen, "*you slave*," or any allusion to the condition, is never heard ; but "*negro!*" pronounced with an angry or contemptuous emphasis, is a word of superlative reproach. In the slavery of this country, the case was so different, that the words "*villain* and *villainous*," have survived, as reproachful epithets, the condition which gave them birth.

In the colonies, it is not said, by way of depreciating one of slavish extraction, that his mother, grandmother, or ancestor was a "*slave*," or that he is a "*freedman*," but that he is a *coloured person*, or that he has "*black blood in his veins*;" nor is there any moral obloquy that bears any proportion to this disgrace. Could the ancestors be proved never to have been in a state of servitude, still, if they were *negroes*, the reproach would not be removed or lessened.

to be the worst masters? I answer, only because every thing *is said*, whether true or false, by the oppressors of the African race, that may serve to diminish our sympathy with those whom they oppress. The statement is untrue; nay, it is the reverse of truth.

It would, perhaps, be too much refinement on the principle here adverted to, if we were to suppose that the great comparative mildness of the Portuguese and Spanish slavery may have been in some degree influenced by a nearer approximation in colour between the masters and the slaves, than is found in the Dutch and English colonies, where the state is confessedly the worst; and the great proportion of free blacks and mulattoes among the former, may be thought to be more the effect, than the cause, of a mitigated slavery: certain, however, it is, that the parts of the West Indies and America, in which the free coloured people most abound, and have the greatest political influence, and where they are for the most part holders of slaves, are those in which the enslaved negroes are treated with the most humanity and liberality by their masters, as well as by the laws.

I pass from the legal subjects of the state, to the legal nature and incidents of the state itself; and these may be conveniently considered:

1st, As they respect and constitute the relation between master and slave.

2d, As they respect questions between the slave and persons of free condition in general.

3d, As they affect the slave in his relation to the state, as an object of civil government and protection. I propose, therefore, to divide my delineation of the state, as it exists in point of law, into three distinct parts under these respective heads.

## CHAPTER III.

### OF THE LEGAL NATURE AND INCIDENTS OF THIS CONDITION, AS THEY RESPECT AND CONSTITUTE THE RELATION BE- TWEEN THE SLAVE AND HIS MASTER.

THE legal nature of this relation will be best unfolded by distinguishing its principal canons or rules.

#### RULE I.—BY THE LAW OF THE COLONIES, SLAVERY IS A CON- STRAINED SERVITUDE DURING THE LIFE OF THE SLAVE.

As this is a property of the state almost universally belonging to it, and comprised in the most general ideas we form of slavery, it calls for no particular observation.

#### RULE II.—IT IS A SERVICE WITHOUT WAGES.

This, too, is a property which the term in its most ordinary signification implies, though even in this respect the slavery of the West Indies is distinguishable, to its disadvantage, from some states of man, from which it has been fallaciously represented to derive countenance and example.

#### RULE III.—THE MASTER IS THE SOLE ARBITER OF THE KIND, AND DEGREE, AND TIME OF LABOUR, TO WHICH THE SLAVE SHALL BE SUBJECTED; AND OF THE SUBSISTENCE, OR MEANS OF OBTAINING A SUBSISTENCE, WHICH SHALL BE GIVEN IN RETURN.

The propositions contained in this rule may most conveniently be stated and proved together, since raising his own food, is commonly part of the labour of the slave.

That the rule is true in all its parts, has been fully admitted by the colonists and their witnesses, in respect of their system anterior to 1788 — *i. e.* prior to the temptation which parliamentary discussions on the Slave Trade presented to the colonies, to disguise the true nature of their interior

policy. The more recent acts of assembly, or meliorating acts, will, as already intimated, be fully considered in a subsequent chapter; but I shall previously proceed to prove that these propositions are true in respect of the anterior law; and this for two reasons: — First, because in some of the islands no subsequent reformation of the law in these points, even of an ostensible kind, has yet been introduced; and, secondly, because in the rest, it is ostensible only, or at least perfectly inadequate and useless.

See — first, the answers of the Council of JAMAICA to the queries proposed by the Committee of Privy Council\*; where, in answer to all enquiries respecting food, and labour, they refer solely in respect of legal regulations, to the consolidated Slave Act of that island, passed in 1788; *c. g.* In the answer as to food, — “The late Consolidation Act furnishes an authoritative regulation in these respects.” — See also in the same Report†, a laboured defence of the interior system, by the Assembly of that island, in which it is tacitly admitted, that the only semblances of any legal restraint on the master’s authority in any of these points, are those of the same recent Act.

The answers were nearly similar from all the other islands, except that no reformation was alleged.

BARBADOES. — Query. Are any days or hours set apart in which the slaves labour for themselves? — State the law and the practice.

Governor Parry. — “The law has made no provision in this case.”

Council of the Island. — “There is no law regulating this matter.”‡

On the article of food, there was no query here respecting the law; but in answer to Question A. No. 5. which regards the practice, Mr. Braithwaite, agent for the island, thus speaks; “The quantity of provisions is uncertain; the allowance of corn to a negro must depend on the circumstances of his mas-

\* Privy Council Report, Part III. A. No. 2. A. No. 4. A. No. 5. A. No. 9. &c.

† Part III. title Jamaica, Appendix

‡ Privy Council Report, Part III. title Barbadoes, A. No. 9.

ter. If the planter fails in his own crop of corn, he must purchase. Should the price be greater than he is able to pay, his negroes must suffer.\*

ANTIGUA.—The Council and Assembly, after reciting the respites from labour usually allowed, one of which is the sabbath, and the rest three holidays at Christmas, add, “These indulgences are all, except the last, the consequences of humanity and good policy. The Christmas holidays are fixed by law.”† The Agents answer the same question in the same way. It evidently appears from their account, that the law appoints the Christmas days only; and that even the sabbath rest, is a discretionary gift of the master.

In regard to food, LEGAL regulations, as before observed, were not a subject of direct enquiry; but in answer to a query which related to laws as to clothing, lodging, &c. the Council and Assembly distinctly said, “No laws have ever been passed in this island for enforcing due care of the slaves.” They added, indeed, “As from the humanity exercised towards them by their owners, it has never been found necessary to pass a law for that purpose!!!”‡

What truth there was in this excuse, will be seen fully hereafter. I shall only remark here, that one of their own witnesses, a gentleman very friendly to their cause, who had resided twenty years in this very island as a medical practitioner, was strangely on this point at variance with the legislature. “*Dr. Adair, admits that there may have been instances of a loss of slaves sustained by either or all of these causes, (viz. hard labour, scanty fare, and harsh treatment,) but so far as his observation has extended, he avers it to be his firm belief that the instances are MUCH FEWER THAN HAS BEEN ALLEGED.*”||

The same witness also expressly admitted the necessity of legislative regulations on these heads. §

\* Same Report, ubi sup. A. No. 5.

† P. C. Rep. Part III. title Antigua, A. No. 9.

‡ Same Report and Title.

|| Id. A. No. 11.

§ Same Report, title Antigua, detached Papers, No. 4.

NEVIS. — “There is no law that gives the slave any allowance of time but Sunday.”

“There is no law which obliges the master to grant this, &c. (viz. provision grounds.)”

“There are not any laws in either cases to enforce the above practices, (viz. care of slaves in sickness, age, &c.”)

All these are answers of the legislature of that island.\*

BAHAMAS. — “They are fed according to the generosity and good nature of the master.”

In answer to a query,

As to clothing. “*No law but practice.*”

As to times of rest. “*No law but practice.*”

As to provision ground. “*No law but practice.*”

These are the answers of the Earl of Dunmore, as Governor of the colony, who alone answered for the Bahamas.†

It would be tedious to multiply further these citations. — In general, it will be found that in none of the islands, prior to 1788, had any legal limitations, real or ostensible, been imposed on the power of the master in these important points. If not restrained by his own conscience or prudence, he might exact labour to any excess, and adopt any scale or manner of sustentation for his slaves, however narrow and merciless, which his avarice might represent as compatible with their existence and usefulness.

**RULE IV. — THE MASTER MAY IMPRISON, BEAT, SCOURGE, WOUND, and OTHERWISE AFFLICT OR INJURE THE PERSON OF HIS SLAVE, AT HIS DISCRETION.**

The chief general exceptions to this rule are the cases of murder, and mutilation; crimes the punishment of the former of which is now by the law of most of our colonies, the same, whether the sufferer be a slave, or a free person; but this, by force of recent acts of assembly, made for the most part subsequent to the year 1797; prior to which period it was, when a slave was the victim, either wholly disipnishable, or the subject only of a small pecuniary penalty; and as to the mutilation or dismemberment of slaves, its punishment is limited, even in

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\* Same Report and Part, title Nevis, A. No. 9. 10. 12.

† See same Report, same Part, title Bahamas, A. No. 5. 6. &c.

the most atrocious cases, to a small fine, or a very moderate term of imprisonment, by the most recent of the meliorating laws.

The Council of Jamaica, on this point, again referred to their Consolidation Act of 1788, — “For mere misbehaviour in “duty to their masters, they are subject to their masters’ dis-“cretion, qualified by the provisions of the Consolidated Act, “&c.”

In answer to the enquiry as to restraints on the masters’ oppression, they say, “The Committee refer to the Consolidated Act for an answer to this head.”

By the latest improvement on this boasted Act the punishment for the greatest outrages on the person of a slave short of murder, even when extending to wilful mutilation or dismemberment, is a fine *not exceeding one hundred pounds* currency, and imprisonment, not exceeding twelve months.

BARBADOES. — “What is the legal power which masters have over their slaves, in each of the British islands in the West Indies?”

Answer by the *Agent*. “I BELIEVE IT TO BE ABSOLUTE.” He excepts only the case of *murder*, as then punishable by a fine. †

Answer by the *Governor*. “In Barbadoes, the power of masters over their slaves is at present unlimited by law, except by a small fine on the person who wantonly kills his slave.”

Answer by the *Council*. “The power of possession is confirmed by law, and the power of punishment is established also by law.” They plainly meant “established to be absolute in the master; as absolute as his right of possession;” for they immediately after gave the exception of a small fine for murder. So recently as October, 1801, the Assembly of this old colony not only adhered to this state of the law as to murder, but actually quarrelled with their Governor for recommending an improvement of it; treating the suggestion as

\* Privy Council Report, Part III. title Jamaica, A. No. 5. and No. 4.

† Same Report and Part, title Barbadoes, A. No. 1.

“an insult,” and telling him “that the House understood its interests, and would assert its rights.” \*

In Barbadoes, at this hour, it may be doubted whether the murder of a slave, according to the meaning of the term murder in this country, is a capital crime, or whether its punishment exceeds a fine of 15*l.* current money; for when the legislature of that island was at last, and with much difficulty prevailed upon, in 1805, to amend its law in this particular, it seems that the opprobrious act which reduced the punishment of slave-murder to that trifling penalty, was not expressly repealed. Instead of this, or of declaring that the wilful murder of a slave should be the same offence in law with the wilful murder of a free person, the legislature seems to have laboured to find a new definition, such as while it plainly marks an intended distinction between those two cases, makes it difficult to say what circumstances would suffice to make slave-murder a capital crime. The words are, “if any person shall hereafter *wilfully, maliciously, wantonly, and without provocation*, kill and murder any slave, whether such slave be the property of the person so killing and murdering, or of any other person, such person so killing and murdering being duly convicted thereof by the evidence of one or more *white* person or persons, &c. shall suffer death,” &c. †

This, be it observed, was not a law passed to supply a mere theoretical defect. Several most cruel and horrible murders of slaves had recently occurred in Barbadoes; and the impunity of the ruffian perpetrators had been a theme of reproach in the mother-country, and of expostulation by the Governor. The tardy reluctance and doubtful character of the reformation therefore is worthy of remark; and not less so the precaution of excluding all testimony, but that of the privileged class. Not only slaves, but free coloured persons are made incompetent

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\* See Papers on the Slave Trade, laid before the House of Commons, and printed in June, 1804. N. B. This collection will in future be quoted thus: (Papers of 1804, Ho. Com.)

† Papers printed by order of the House of Commons, of 5th of April, 1816, p. 36.

to prove the crime; *white persons* are to be the only witnesses; and so intent were the framers of the Act upon this object, that they overlooked an exception which they, doubtless, would otherwise have made, as to cases in which free coloured persons were the parties accused; for in all other cases they are competent witnesses against each other; but a free Mulatto who had murdered a slave could not be convicted under this Act, unless a white person could prove his crime.

As to the crime of dismemberment or mutilation, or any other species of mayhem or cruel treatment perpetrated on a slave, I find no provision by any Barbadoes law for its punishment. I conceive, therefore, it would be in the case of the master, dispunishable; and that if committed on another man's slave, it would be the subject only of a civil action by his owner.

**ANTIGUA.** — “The power of masters does not extend to the taking away of life or limb — there is no law prescribing what species of punishment the master may inflict.” — Answer of the Council and Assembly of the island.\* When this answer was given, murder and mutilation were, by the express law of this island, punishable only by a fine.

**NEVIS.** — “What is the power that masters have over their slaves, &c.?”

Answer by the Council and Assembly of the island. “The full power of corporal punishment according to the nature of the crime, but no power of life or limb.”†

**BAHAMAS.** — “The proprietor has a legal and absolute right to dispose of his slave.”

“They can be corrected at the will of their masters.”‡

There is in this colony a meliorating Act of 1797, which excepts mutilation, &c. but under penalties limited to 100*l.* currency, or six months imprisonment, even in the most atrocious cases.

**ST. VINCENT.** — “I do not recollect any provisions in the ‘St. Vincent's law which either limit the degree, or ascertain

\* Same Report of Privy Council, Part III. title Antigua, A. No. 1.

† Same, title Nevis, A. No. 1.

‡ Same, title Bahamas, A. No. 1. and No. 3.

"the nature of the punishment which a master or manager "may inflict, except those which relate to the murder, mutilation, and dismemberment of the slaves."\* I am not aware of any subsequent improvement here.

In *Dominica*, by its first meliorating Act, to *maim, deface, mutilate, or CRUELLY torture* a slave, was made a crime that subjected the offender to a fine *not exceeding 100l. current money*, and no imprisonment at all; but I find such offences are, by a subsequent Act of 1818, made punishable with imprisonment, not exceeding three months; as the alternative to such fine, at the discretion of the court.

There are in some of the more recent Acts of several islands provisions which it may be thought proper to notice in this place, though they will require a more particular statement and consideration in that review of these meliorating laws which I have reserved for a subsequent chapter — I mean the clauses which affect to restrain the master's power of punishment by limiting the number of lashes to be inflicted *at one time*. A man might laugh, if compassion did not inspire a graver emotion, at a restriction like this, even if it were capable of being enforced by law. The sufferer to be sure would gain little by such a pause, as would break the continuity of the punishment, if it were to be repeated after an interval long enough to satisfy the terms of the law, by constituting a different time. The systematic tormentors of Ravillac gave him many such pauses purposely to augment his sufferings. But the best commentary on this restriction, is to be found in the same or later laws passed in some of these islands. We find in them, in addition to the limitation of 39, or of 10 lashes at one time, prohibitions of repeating them for the "*same fault*" or on the "*same day*;" and to this one or two of the Acts have added, or "*until the slave shall have recovered from the effects of any former punishment*."† As no human tribunal can, or affects to, judge between master and slave, in respect of the reality or materiality of a fault im-

\* Evidence of Drewry Ottley, Esq. Chief Justice of the island of St. Vincent. Com. Report of 1791, p. 161.

† Consolidation Act of Jamaica of 1816, see 27. Act of Dominica of 1818, see 17.

puted, the invention of the former must be very barren, to be sure, were he at any loss to find reasons enough for using his whip with as frequent iteration as he pleases; but as he is in no way bound to assign such reasons, the restriction is in every view preposterous. A repetition, too, on "the same day" would hardly be less severe than the reserving it for the morrow, and for as many consecutive days as might be necessary to satiate the vengeance of an enraged and relentless master; nor would it be much mitigation of the poor victim's feelings, that instead of receiving the whole determined infliction at once, he was to have a portion of it reserved till the confinement and all the other sufferings of the healing process had been sustained, in order then to have the newly-healed and cicatrised flesh cut open again, and the same consequent sufferings renewed. These effects of the restrictions, however, are not incurred; because as a slave cannot indict his master, and if he could, neither he nor any of his hundred brethren who may have seen the offence, is competent to prove it, no master can be fool enough to regard such laws as worth the trouble of evasion. These enactments, however, are not wholly useless. They mark to the reflecting mind the true character and object of these meliorating laws in general. No part of them can more plainly illustrate the stricture of Mr. Burke—  
*"It is arrant trifling; they have done little; and what they have done is good for nothing. It is totally destitute of an executorial principle."*

I do not regard such provisions, then, as forming any real exception to, or qualification of the rule I have laid down as customary and operative law in all the colonies; "that the master may imprison, beat, scourge, wound, and otherwise afflict or injure the person of his slave at his discretion." The only exceptions at all capable of being enforced where competent evidence strangely happens to be found, are the case of murder and that of mutilation, or mayhem; and as to the latter, the law has been shewn to be still almost in every colony highly defective in theory as well as practice.

Far different in these points was the English law of villeinage. Our rude forefathers allowed, indeed, of slavery, and even departed from the humanity of their Saxon ancestors as to some of its rules; but they were not unjust or unfeeling

enough to deny, as to life or limb, the full protection of the law where its protection was most necessary; or to regard the blood of their fellow-creatures as of less estimation on account of their servile state. Nor was there generally any distinction in the remedy, any more than in the rule, on account of the slavery of the party injured. The maimed *villein* might indict, the violated *niece*\*, and the son of a murdered slave, might implead, even by appeal, their haughty lord; and not only enforce against him the same condign penalties, to which he would have been subject had he injured an equal in the same manner, but obtain their liberty also, as some reparation of their wrongs.†

Let us next compare this rule of West India law, and its exceptions, with one of the most ancient codes of law upon earth; that of the Gentoos.

“ If a *wife* or *son*, or a *SLAVE*, or a *FEMALE SLAVE*, or a *pupil*, or a *younger brother*, hath committed a fault, they may be scourged with a *lash*, or with a *bamboo twig*, upon any part of their body, where no dangerous hurt is likely to happen; but if a person scourges them beyond such limitation, he shall suffer the punishment of a *thief*.†

Here we see that the slave of Indostan is, in point of corporeal punishment, subject only to the same domestic authority, which equally extends over the wife, the son, the younger brother, or pupil, of his master; and other instances of the leniency of this bondage will hereafter appear. As usual, its mildness has led to its disuse as an institution; for very few slaves now remain in that country; at least within the company’s dominions in Bengal.

The least unfavourable comparison to be found for West Indian slavery in general, is that of Rome, in those ages when the institution was yet unreformed, either by the piety

\* So a female slave was called.

† *Vita et membra sunt in potestate regis, ita quod si quis servum suum occiderit, non minus punietur quam si alienum occideret; et in hoc legem habent contra dominos, quod stare possunt in judicio contra eos de vita et membris, propter servitiam dominorum, vel propter intollerabilem injuriam, &c.* (Bracton de Leg. Lib. I. cap. ix.)

Litt. Villeinage, Sec. 189, 190, 194, 208, &c.

† Code of Gentoos Laws, Chapter 16. edit. of 1781, page 208.

of Christian emperors, or by the humanity of Adrian, and the Antonines.—The Roman masters had a power over their slaves, extending even to life; but here let me point out a striking coincidence between the more ancient laws of Rome and those of Indostan, as to the light in which the relation between slave and master was considered, by the legislators of those widely different countries. Though the Gentoo code is amiably mild when compared to the Roman, yet both agree in giving in general an equal range to magisterial, and parental authority. The Gentoo master may correct his slave in the same degree with his son, and no further. The Roman father might put his son to death, as well as his slave, was entitled to the property he acquired, and might exercise over him the same inferior authorities of scourging, imprisoning, chaining, and even selling into slavery. Nay, the Roman law, barbarous as it was in regard to slaves, carried the power of the parent higher than that of the master; for the son might be three times sold; the slave only once.—If the latter was enfranchised by the buyer, he was for ever free; but the son, though manumitted by a first and second purchaser, might be sold a third time by the father.\*

It is certainly some excuse for the Roman lawgivers, and if the manners of their country, at the time of the introduction of the law of the twelve tables, were fully known, perhaps the excuse would rise almost into a justification, that the *pater familias* was not entrusted with greater power over his slaves, than over his own children, who were equally amenable to the same mild domestic forum. But as manners became corrupted by luxury and avarice, (which, in spite of their soft and specious pretences, are the great sources of cruelty and oppression in every age and country,) restraints became necessary upon the father's power, as well as the master's; and it is well worth attention that they were found necessary, as may be inferred from the interference of the legislature, at the same period. In the time of Trajan, and his successor Adrian, both the son and the slave began to be effectually protected from that cruel abuse of domestic power,

which was the natural growth of corrupt and dissolute manners.\*

The Roman slave law afterwards progressively advanced in its humanity. By a rescript of one of the Antonines, a slave, when treated cruelly by the master, might fly to the temples, or statues of the emperors, for protection; on which the civil magistrates took cognizance of the complaint; and if the severity of the master was established, the slave was delivered from his power by a judicial sale.†

Much broader exceptions to the Colonial master's power of punishment than are here stated, were alleged, but most untruly and inconsistently alleged, to exist in some of our islands; in answers given to the enquiries of the Privy Council.

It was stated by the Councils and Assemblies of Grenada and St. Christopher, that "*immoderate, or excessive, or wanton punishment by the master,*" were indictable offences; not, as they admitted, by force of any positive laws of their own, but by what was called by the Grenada Assembly, the *general principles of the law.*‡

Of the nature and tendency of this assertion, something has already been said.§—There is obviously no way to reconcile it, in point of principle, with the fundamental maxims of their slave codes; but the cases which were made to give colour to this representation, happen to fall within the author's private knowledge; and he therefore will assist his readers with such an explanation as may, perhaps in part, soften the misstatement into mistake.

Such excessive and extraordinary cruelty towards a slave as is *scandalous and of evil example in the eye of the public,* were

\* Browne's Civil Law, B. i. Chap. 4.

† Institut. Justin. Lib. i. tit. 8.—Nor was the remedy confined to

‡ For a particular account of the three cases referred to in support of cruelty in punishments alone—et dominorum interest ne auxilium centra sævitiam, vel famem, vel intolerabilem injuriam, denegetur iis qui juste de precantur. Ideoque cognosce de querelis eorum, qui ex familia Julii Sabini ad sacram statuam confugerunt; et si vel durius habitos quam æquum est, vel infami injuria affectos esse cognoveris, venire jube, ita ut in potestatem domini non revertantur.

A. 1, A. 3, A. 4.

§ See supra, Chap. i

in three cases recently antecedent to the meliorating Acts, held to be on the principles of the English common law, as in force in the colonies, legally punishable by indictment.—Without such a limitation of the doctrine as this, it would follow from it that the subsequent Acts of these very Assemblies had deteriorated instead of improving the legal situation of the slaves.\*

While I admit that in three cases this doctrine was received as law, and that murder and mutilation are crimes for which the master may be punished, these exceptions to the general rule of his impunity for cruel treatment of his slave, are noticed rather for the sake of theoretical accuracy, than because they are of much practical importance; for were we to state the customary slave-law of the colonies only as it is in ordinary use, it might be fairly stated, that the life and members even of the slave, are wholly in the power of the master. Nay, we might safely go further, and state that they are at the mercy of every free or white person in the country; for a few instances of convictions of odious and unpopular offenders, chiefly of the coloured race, or in extreme and singular cases, cannot reasonably be considered as evidencing the execution of the laws against murderers and mutilators in general, when it is admitted that a very great majority of such offenders escape unpunished. This, indeed, is ascribed by colonial witnesses only to the inadmissibility of the evidence of slaves; but the fact avowedly is, that atrocious and notorious crimes of this nature ordinarily escape the correction of public justice; and the reason assigned for it instead of furnishing an excuse for the Colonial legislatures, is a great additional reproach to them. The unqualified rejection of the testimony of slaves is not less irrational in its alleged principles, than unjust and cruel in its effects. But I shall hereafter have to notice this mischievous rule more directly, and shall give to the strictures that it calls for a more comprehensive application, in a subsequent chapter, when we proceed to consider the state of slavery in its relations to free persons in general.

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\* For a particular account of the three cases referred to in support of this explanation, see the Appendix to this Chapter, No. I.

**RULE V. — THESE HARSH POWERS OF THE MASTER MAY ALL BE EXERCISED, NOT BY HIMSELF ONLY IN PERSON, BUT BY HIS REPRESENTATIVES AND AGENTS OF EVERY DESCRIPTION, AND BY EVERY PERSON WHETHER BOND OR FREE, WHO IS CLOTHED IN ANY MANNER WITH HIS AUTHORITY.**

The slave is liable to be coerced or punished by the whip, and to be tormented by every species of personal ill-treatment, subject only to the exceptions already mentioned, by the attorney, manager, overseer, driver, and every other person to whose government or control the owner may choose to subject him, as fully as by the owner himself.—Nor is any special mandate, or express general power, necessary for this purpose: it is enough that the inflictor of the violence is set over the slave for the moment, by the owner, or by any of his delegates, or sub-delegates, of whatever rank or character.

To West Indians, these will appear consequences of an owner's authority, as natural and obvious as it is of my property in a horse, that I may depute a servant, or empower a stranger to ride him; or that such delegation carries with it the right of using the whip and spur, as well as the bridle. They may think it a waste of words to point out so obvious a corollary of the former propositions.

But these properties of colonial slavery, are by no means derived from the stock from which some of its advocates have attempted to deduce its legal pedigree in general, and whereto they have had the rashness to refer for its legitimate nature and rules. The English lord had an arbitrary power of beating or correcting his villein; but it was a power which he could only exercise in *person*, and with *his own hands*. He could not delegate that important and dangerous authority; not even *pro re nata*; much less constitute general attorneys, managers, overseers, and drivers, with a power of driving and whipping, *ad libitum*, the human cattle whom he gave them in charge. The villein might have an action against any man but his lord for beating him, except for just cause; and it was no legal defence in such action to plead, that it was done by the command of the lord.\*

It is fortunate, at least upon their own views, for our planters, that the law of villeinage is not followed in this instance. How terrible would it be to them to be obliged to quit the elegancies of Europe, or even the indolent luxuries of a West Indian mansion, and to follow their negroes with the cart-whip ! To the slaves, however, the restriction would be a supreme blessing. Not to mention the more liberal views, and perhaps, from the effects of a relation that ought to be interesting, the more favourable feelings, by which the whip might be impelled, if confined to the master's hand ; its coercive, which is far more pernicious than its penal application, would infallibly be withdrawn. If masters could not drive by deputy, they would cease to drive at all ; and would find, like our ancestors, that the services of their bondmen (the efficacy of the compelling lash being wanting) would be more advantageously obtained by encouragement and reward, than by retrospective punishment.

Though it will be anticipating in some measure one of the most important topics that belong to the second grand division of my work, in which I proposed to consider "the practical nature and effects of slavery," I hope the reader will pardon my offering in this place some further remarks on the driving method, as it furnishes the strongest illustration of the Rule we are now considering, and shows at the same time its fatal importance.

The proprietor being able to delegate the power of the whip to whom he pleases, and the right of sub-delegation also being limited by his authority alone, it naturally descends, as convenience dictates, from him to his manager or overseer\*, and from the manager or overseer to the subordinate agents of free condition. † I pass by the attorneyes of absent proprietors, (the ordinary description of those planters whose incomes enable them to live in Europe) because the attorney as such

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\* So his chief representative in the government of the plantation when he himself is not on the spot, is variously called in different colonies.

† These are called overseers where the chief director is called manager, as in the Leeward Islands; and book-keepers where he, as in Jamaica, takes the name of overseer.

does not, except in extraordinary cases, exercise his delegated authority in punishing the slaves, but commits the discipline of the estate to the resident manager or overseer, and his subordinate agents. But these, however many in number, possess and exercise the tremendous power, for such it truly is, of inflicting on the slaves under their government, whether male or female, the punishment of the cart-whip. \*

When it is considered that these inferior agents are, for the most part, either Creoles of the lowest class of whites, nursed in the lap of colonial prejudice, and taught from their earliest years to cherish as an honorary principle a proud contempt of the African race, or else raw lads from Europe, few of whom comparatively are spared by the climate long enough to learn the true character and proper treatment of the poor beings they are called to govern, such delegation of a master's power will be admitted to be harsh and dangerous enough.

But it would be well, comparatively, for plantation slaves, if the delegation ended here. It descends also to the *drivers*, who are generally, if not universally, negro slaves; and yet, as a necessary incident of the opprobrious driving system, are intrusted with the power of the whip over their brethren while working under their superintendance in the field. These men are selected from among the most intelligent and the most athletic of the slaves belonging to the estate, and present in their plump and robust appearance a striking contrast to the

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\* That every such subordinate agent possesses the power in question will hardly be denied; but to prevent all doubt on that subject, it may suffice to refer to some of the meliorating Acts which affect to prevent its abuse, by limiting the number of lashes that may be inflicted by the *overseers*, &c. at any *one time*, or for the *same fault*, except when the superior agent, or proprietor himself or his attorney is present. Frivolous though such restrictions are, and incapable of being enforced by law, they serve to manifest not only the general existence of the power, but its greater liability to abuse in the view of the Assemblies themselves, than the same power is in the hands of the proprietor or of his principal representative on the spot. See the meliorating Act of Dominica of 1818, sect. 17. Papers, Ho. of Com. June 7, 1819, meliorating Act of Jamaica of 1816, sect. 27. Papers, Ho. Com. of June 10. 1818, and other Acts of the same kind in the Parliamentary Papers.

generality of the poor labourers whom they drive. A long thick and strongly platted whip, with a short handle, is coiled and slung like a sash over their shoulders, except when extended in the hand for use, as the ensign of their fearful office; and being long trained to the expert use of it, they well know how to direct, and how to aggravate or mitigate its inflictions, at the will of their employers, or their own. They have an emulation in the loudness of the report which they produce from this instrument of torture, the sound of which is enough to make the stoutest of its male patients tremble; and the smack of the cart-whip\*, frequently repeated from a distant cane-piece, serves often, instead of a bell or conch shell, to summon the negroes from their huts at the earliest dawn, to the theatre of their morning labours.† The drivers, however, can when they please, in actual punishment, produce a loud report without proportionate severity of stripes; and on the other hand, when told to *cut*, as the phrase is, they can easily inflict a gash at every stroke, so as to make even a few lashes a tremendous punishment. A planter who valued himself on his humanity, once pointed out to me a driver of his then passing by, as a man whose strength of arm and adroitness in the use of his whip were more than commonly great, and who had also a cruel disposition. I once actually saw the fellow,

\* In Jamaica it is called the *cattle-whip*, being the same that is used to drive the oxen, which in that island are chiefly used for carting. In the Windward and Leeward Islands it is every where, I believe, called the cart-whip. The terms and descriptions I use are, in general, to be referred to the latter colonies, though I shall notice every material distinction of which I am aware. A Jamaica gentleman once complained in the House of Commons of the use of the term cart-whip; I know not why, having never heard that the cattle-whip in any respect differs from it.

† See Beckford's Account of Jamaica, vol. II. p. 51.  
 " The mules dread the *thunders* of the whip, &c. for this instrument of correction in Jamaica, whether it be in the hands of the cartman, the mule boy, or the negro driver, is heard in either case to resound among the hills, and upon the plains, and to awaken the echoes wherever the reverberation of the lash shall pass."

I desire it to be understood in this instance, and in every other in which the contrary is not expressed, that the author cited is no enemy to the colonial system of slavery in general, but either engaged in it, or its avowed apologist, as was the case with Mr. Beckford.

said he, lay open the flank of a mule he was driving, cutting fairly through its tough hide at a single stroke. He added that he had punished him for it; and that it was his general injunction to him and the other drivers not to *cut* the negroes in their whippings, upon pain of being laid down and flogged themselves. *Cutting* does not mean merely drawing blood and peeling off the scarf skin, for those are effects of almost every stripe on the naked body with this instrument, however leniently applied, but it means cutting through the *cutis*, or true skin, into the muscles or flesh below; and this is so usual in cart-whippings, when regularly inflicted for a serious fault, that confinement to the hospital during the cure is an ordinary consequence, and large scars or weals remain during the life of the patient.\* To be exempt from such vestiges of severe punishments received, is regarded as a distinction creditable to the character of a plantation slave, and enhancing his value to a purchaser.

I notice these features of colonial slavery here, chiefly to

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\* " We fell in with a party of negro women washing linen in the opening " of a river near the sea, and a more disgusting sight I do not recollect to " have ever beheld, &c. Their bodies were naked, save a bit of blue cloth " folded round the loins and brought between the legs from behind to fasten " before. As they stooped down to dip the linen in the river, many of " them exposed the crowded and callous scars of repeated punishment," &c. Dr. Pinckard's Notes on the West Indies, vol. I. p. 257.—Dr. Pinckard is a gentleman with whom I have not the honour of being personally acquainted, and I do not know what his general sentiments are on the subject of colonial slavery, any further than they may be collected from his work, which is not of a controversial character, nor apparently intended to favour either party in the question of the abolition, or that of colonial reform. His work, published in 1806, is one of miscellaneous information, and breathes throughout the true spirit of a candid, intelligent, and judicious tourist, writing to serve no party, and to support no theory, but only to communicate in a useful and entertaining manner the facts he had witnessed, and the observations he had made. In this, therefore, and other quotations that I shall have to make from his valuable and interesting work, I feel myself entitled to cite him as a neutral, as well as a highly respectable witness.

" Nothing tends so much to render negroes insensible to shame and to " pain, as the abuse of the cart-whip for every trifling fault. As to that " tremendous application of it which confines the delinquent to the sick " house for five or six weeks, the offence ought to be very weighty indeed

mark the importance of the rule immediately under consideration. They shew, at the same time, in a new light, the extreme futility of all regulations that affect to limit the power of punishing possessed by the master or his agents, in respect of the number of lashes. If such laws were capable of being enforced, and if they were not nullified by the power of repetition, a power not pretended to be limited, except by the idle restrictions formerly noticed\*, still the poor slave would gain little by a reduction in the number of stripes, when their severity is capable of being enhanced almost to any degree that cruelty can desire. This barbarous method of punishment, such I have repeatedly heard practical planters admit it to be, ought to be wholly prohibited, unless when inflicted by public authority for crimes of an atrocious kind. We hear with horror of the Russian punishment of the knout, which is applied only to capital convicts; but by the description travellers have given of it, there seems to be no other difference between the knout and the cart or cattle-whip, than their application to different parts of the frame. The long whip of the Russian executioner cuts the victim from the nape of his neck to the loins, his back being laid bare for the purpose, and by its deep incisions, though few in number, often produces death; but the negro, to avoid that consequence, is lacerated by a like instrument only on a part of the frame from the fleshy texture of which the incisions, however torturous, are not likely to be fatal. They nevertheless sometimes prove so. In a pretty recent

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“ that can call for and justify it; for it is a severity not more repugnant to humanity than to good policy, there being a certain loss of the service of the negro for so long a time, besides the injury that his constitution may sustain by a long confinement in an uncomfortable position, with his body naked, &c. Some other mode of correction may be substituted that will equally well answer the purpose, without lacerating the flesh, and disfiguring the body, which the whip is apt to do.” Dr. Collins’s Practical Rules for the Management and Treatment of Negro Slaves in the Sugar Colonies, 1803, p. 209.—This author, whom I shall also have frequent occasion to cite, is not a neutral witness, but was an experienced practical planter, and an able public apologist of colonial slavery and the slave trade.

\* See page 48.

case, brought to the knowledge of parliament, a poor field negro was literally whipped to death by the immediate order, and in the presence of his master; and a severe cart-whipping even, when not dangerous to life, often produces cruel and long protracted subsequent sufferings while the patient is under cure.\*

But the consequence of this branch of the slave law to which I would more particularly direct the reader's attention, is the terror with which it arms the drivers, and the despotism which these lowest delegates of the masters authority are thereby enabled to exercise over the common plantation slaves. If their power of inflicting pain were exercised only by the immediate order, and in the presence of the managers or overseers, it would still be formidable enough; for the measure of suffering would, nevertheless, in no small degree, depend upon the will of him by whom the whip is brandished and applied. But the work of the field, is unavoidably, for the most part, conducted under the inspection of the drivers alone. The number of white agents employed, even on the best appointed estates, is never sufficient to supply every working gang with a superintendant of that class; and if it were, their constitutions would not permit them to stand constantly, or for any large part of the day, on the sultry glebe, under a vertical sun, to judge between the drivers and the driven. The climate, which makes their present duties destructive to them in a deplorable degree, would in that case multiply its fatal effects, so as to require a succession of them from Europe probably every year; but though a manager or overseer, in well directed plantations, occasionally visits the field, and surveys the labours of it for awhile in the cooler hours of the day, they are chiefly employed about the home-stall, and in urging forward the important operations of the mill, the boiling house, and distillery, while the heavier labours of the field, are of necessity entrusted to the drivers, and with them of course the discretionary use of that brutal discipline

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\* If the reader is desirous of further specific information on this subject, his curiosity may be satisfied, though with much pain to his feelings, by a reference to Dr. Pinckard's Account of the West Indies, vol. III. p. 64 to 74.

by which they are enforced.\* If it should be alleged, that abuses of this power are effectually prevented by the fear of complaint to the master or manager, the pretence would be not only untrue, but utterly incredible. Responsibility and confidence must in this, as in all cases, go together. The driver is responsible that the work allotted to his gang shall be properly done, and to such extent in a given time as the exigencies of the estate demand. As no distinct tasks are allotted to individual slaves, particular defects can be brought home to no one but the driver himself, and he only can distinguish, in the heaviest species at least of plantation labour, which individual men or women, working as they do in an extended line together, are not keeping pace with the rest, and casting the hoe with equal energy and effect. When he sees this, he is obliged to interpose at the moment, and correct the fault, or the whole line might fall into confusion, or the work be spoilt.† An illustration, though not an adequate

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“ Sorry am I to say, that by much too frequent use has been made of this instrument (the cart-whip), and that it is often employed to a degree, which, by inducing a callosity of the parts, destroys their sensibility, and renders its further application of little avail. It is not unusual to arm the drivers with it, and to leave the use to their discretion. Of course, it is administered neither with impartiality nor judgment; for it is generally bestowed with rigour on the weakest negroes of the gang, and those who are so unfortunate as not to be in favour with this sub-despot, and that too frequently on any part of the naked body or the head, whilst the more able negroes, who sometimes deserve it, escape with impunity.”

(Dr. Collins's Practical Rules, cited before, p. 201, 202.)

† To make this more intelligible to European readers, I will reprint in an appendix a description of the process of holing the land, from a work published in 1802, called the Crisis of the Sugar Colonies. I do not cite it as authority, for the work is my own; but because the description it contains has stood the test of much hostile and disingenuous criticism, and its truth has been most decisively vindicated, as I shall shew in the same appendix.

Meantime, the reader perhaps may be pretty well satisfied as to the general character of this odious and destructive method by the following further extract from Dr. Collins:—

“ The exertions, however, that are to be required of them, (the slaves) should be proportioned to their faculties, which vary greatly in different subjects. This seems not to have been sufficiently attended to in the distribution of labour; as it is usual to divide the negroes of an estate

one, may be found in the case of a regiment drawn out and exercised on a parade. The line may be thrown into disorder by the bad motions of a single private, and yet none of the rest be aware with whom the fault arose; for every man is intent on his own particular business, and cannot see how his comrades perform. If we suppose then a single reviewing officer or serjeant in the front or rear to be the only spectator, and responsible for the correct performance of the evolutions, how impossible would it be for any man to judge between him and the private to whom he imputed the fault. The officer might be partial, or he might be mistaken, but his word must of necessity be taken; and if he had the power and the duty of preventing the disorder, by chastising the fault with his cane at the instant, it would be equally unjust and absurd to condemn and punish him on the mere contradiction of the alleged delinquent himself to whom he had given a blow.

It is evident that no such control of the driver is or can be attempted, and the stripes which he gives in the field are therefore never heard of at the homestall. Can it be doubted then that he may oppress and torment individual slaves, the objects of his ill will, in the most grievous manner with impunity, in the exercise of his ordinary functions?\* No such

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“ more according to their age than their abilities; power being inferred  
 “ from age, &c. The consequence is, either that the weaker negroes must re-  
 “ tard the progress of the stronger ones, or your drivers, insensible of the  
 “ cause of their backwardness, or not weighing it properly, will incessantly  
 “ urge them, either with stripes or threats, to keep up with the others, by  
 “ which means they are over-wrought, and compelled to resort to the sick-  
 “ house.” — Practical Rules, p. 176.

For giving, three years before, a description of driving, substantially the same with, but not so strong as this, the author of the *Crisis* was accused, by respectable West India Proprietors, in the House of Commons, of violating truth, and calumniating the Sugar Planters. The late Mr. Rose even, whose official situation and connection with the colonies, made his assertion of great weight, joined in contradicting the account. It is but justice to a deceased, and highly respectable public character, to add, that I doubt not he spoke sincerely; for he professed to ground himself on information, not on personal knowledge of the case. He thought, no doubt, that upon so open and general a fact as the practice of driving, the practical planters he consulted would not deceive him.

\* Dr. Collins admits that such abuses cannot be prevented, and therefore advises that the whip should be banished entirely from the field.—p. 202.

doubt is entertained by the unfortunate beings who are driven, for they know the fact too well by bitter experience ; and therefore their awe of the drivers is full as great as that which they feel towards the master or manager himself. Need I cite authorities to prove that this influence is often employed for purposes the most unjust, cruel, and pernicious ? To suppose the contrary, would be to ascribe to the drivers in general a strange exemption from human infirmities, instead of that pre-eminent depravity which the white colonists are fond of imputing to the African race ; for their daily occupation, as well as their servile and degraded condition, must have a natural tendency to harden the heart. We are told that black men, when slave masters, are remarkable for their harshness in that character. I will not be so unjust towards them as to adopt the charge, which I believe to be calumnious ; but with what consistency can those who make it, maintain and justify a system which gives to these men, in their daily functions, the irresponsible exercise of a master's punitory powers without a master's feelings ?

In answer to a thousand proved and indisputable facts, we are desired to rely on the humanity of our countrymen in the colonies, as if there were nothing in the exercise of despotic power, or in the long administration of such an iron system as prevails there, or in the contagion of local prejudices and habits, that had a tendency to impair that quality ; but if we could rely on the incorruptibility of benignant feelings in the minds of the whites, we must extend the same prepossessions also to the black delegates of their authority, before we can believe that the driving system is mildly and equitably administered. It is in truth incapable of being so, as I shall hereafter fully shew. It is in its very nature merciless and destructive ; and not less inconsistent with the physical, than the intellectual and moral well being, of its unfortunate victims.

But what remains to be pointed out in this place, is the pernicious way in which it is naturally made subservient to the passions and selfish views of the drivers. These men, who by their exemption from hard labour and other advantages, are pre-eminent in health and strength, are of course highly addicted in general to those vicious habits, partly derived from African

polygamy, and uncorrected by Christian education, which notoriously prevail on the plantations. They must often therefore have their rivals among the males, and their favourites among the females, whom they drive; and sometimes it must happen that fidelity to a husband (for marriages there are among the slaves, formed by mutual affection, though not by religious rites,) forms an obstacle to their desires. Let the pure and the compassionate heart consider what, in such cases, is likely to be the odious use of their power, and of the terror they are able to excite.

These men also have their provision grounds, or gardens as they are called, which are generally at a great distance from the works, and on some steep acclivity of the adjoining mountains; and though few comparatively of the common slaves can find time and strength enough to cultivate the spots allotted to themselves, the feeblest and weariest of them dare not refuse to employ gratuitously a portion of their Sabbath rest in hoeing up or weeding the ground of the drivers, or in bringing down, and carrying to a distant market for them, their vendible produce. Nor is it a rare case that the drivers obtain from these poor drudges their own allotments, to be cultivated in the same way. No small part, I believe, of what the negroes bring to the towns for sale on their Sunday markets, is sold on account of their drivers. If it be objected that the planter or manager would not knowingly tolerate such abuses, the answer is, he cannot prevent them, and they are carefully kept from his knowledge. I have heard experienced planters lament these practices as a general evil, but declare at the same time their inability effectually to check them on their own estates, because the slaves were afraid to give information of or confess them. \*

It would be endless to point out the various other motives

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\* "A very able opponent of the abolition has pretty intelligibly admitted "these facts, when he speaks of the great attention necessary from managers "to insure that the negroes work their provision ground *for themselves*," and mentions that "inferior slaves are very frequently procured by terror or "other motives to work them for others." —(Considerations on the Emancipation of Slaves, by a West India Planter).

that are likely to tempt these servile and degraded delegates of the master's authority unjustly to use their power. They have naturally their particular dislikes and partialities, their connections, their collisions of petty interest, and their quarrels, in the little servile society of which they form a part. It cannot be doubted, therefore, that, passion and self-interest apart, the driving whip is often impelled or restrained by feelings other than a sense of duty to the master, or an upright regard to equality in the distribution of the work.

If, however, it could be supposed that this most odious part of the system is impartially administered, enough of physical and moral mischief would still remain, as its natural and necessary fruits, to make perseverance in it truly opprobrious. The tyrant's plea, of necessity, here cannot be alleged. Individual task-work is a substitute found to be of sufficient efficacy in every species of slave labour to which driving cannot be applied; in other words, when the work cannot be performed by a body of men and women in rank or file, so as to be under the coercion of a single whip. In almost all the more laborious operations of sugar estates driving is practicable, and therefore is inexorably used; but for no better reason than that, by casting the charge of individual discriminations and coercive discipline on the drivers, it relieves the manager and other white agents from onerous duties, and the proprietor from the expence of adding to their number, in order to have those duties properly performed. If economy, however, seems to recommend this shameful method, it is, like most other abuses of the system, by holding forth a present advantage, to be dearly purchased by future loss. The driving system is, as I shall demonstrate hereafter from premises beyond dispute, the chief cause of that progressive decline of numbers by the excess of mortality beyond native increase among the slaves, which still so fatally distinguishes the sugar colonies.

Such are the effects of the last rule of slave law that I have stated, and such the extreme difference in this point between the antient slavery of England and that colonial state of black men which the terms bondage and slavery most inadequately define. If the colonial master could not

delegate the power of the whip, and even to servile hands, driving would never have been used, and some of the most destructive evils of the system would have no existence.

**RULE VI. — SLAVES HAVE NO LEGAL RIGHTS OF PROPERTY IN THINGS REAL OR PERSONAL; AND WHATEVER PROPERTY THEY MAY ACQUIRE BELONGS, IN POINT OF LAW, TO THE MASTER.**

This rule is so fully admitted by all the apologists of the slave system, that I need not cite authorities to prove it.

Though the Roman law was, theoretically, hardly less severe, yet the slave was allowed to acquire property, in the enjoyment of which he was freely indulged by the master, and protected against all other persons. It was called his *peculium*; and the many anxious provisions of the Imperial Code on the subject, plainly show the general extent and importance of such acquisitions. The Roman slave was also empowered by law to enter into commercial and other contracts, by which, to the extent of the value of the peculium, the master was bound\*; a principle utterly unknown in the West Indies. In this, as in most other respects, the slave and domesticated son, or *filius-familias*, were on the same footing; and their civil incapacities did not hinder their exercising, for their own benefit, with the permission of the master or father, or in his right as his factors or delegates, all those powers of acquiring, improving, and enjoying property, which belonged to free persons†; whereas the law of our colonies allows to the slave no power of contracting, either original or vicarious; and regards the little property of which he is sometimes possessed, as simply, and absolutely, belonging to the master.

The Grecian slaves had also their peculium; and were rich enough to make periodical presents to their masters, as well as often to purchase their freedom. ‡

The helots of Sparta were so far from being destitute of

\* *Instit. Justin.* lib. iv. tit. 6. *de actionibus*, s. 10.

† *Potgiesser de Statu Servorum*, lib. ii. cap. 9. s. 1.

‡ *Barthelemy's Anacharsis*, vol. ii. cap. 6.

property, or of the legal powers necessary to its acquisition, that they were farmers of the lands of their masters, at low fixed rents, which the proprietor could not raise without dishonour. \*

The slaves among the ancient Germans, paid to the master only a small part of their property, as a tribute, retaining the rest as their own †; and though their state was much deteriorated in later times, the modern slaves of Germany have, in general, possessed a legal right of holding and transmitting property, subject only to some reasonable restrictions; except that mortuaries, or, in some places, a certain part of the estate, devolved on their death to the lords. ‡

In our own days, the Polish slaves, prior to any recent alleviations of their lot, were not only allowed to hold property, but endowed with it by their lords. §

Our ancient law of villeinage, was in this respect less indulgent than in most other points; for the lord might seize the property of his villein, if so disposed; although without seizure, it did not vest in him, but might be enjoyed or transferred by the villein, and transmitted to his representatives at his death. || But practice here went beyond the law in liberality, to an extent at which our West India planters

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\* Id. vol. iv. cap. 42.

† Tacitus de Mor. Germ. cap. 25.

‡ Heineccius Elem. Jur. Germ. lib. i. tit. i. s. 44, 45, &c. Potgies. lib. ii. cap. ii. s. 13, &c.

§ Every peasant, even the meanest, is provided by his lord "with two oxen, two horses, and a cottage. In case of fire, the latter is rebuilt, and, in case of death, the former are replaced by their owner. A certain fixed portion of their time and labour is appropriated to their lords, and the remainder they are at liberty to convert to their own profit or purposes. The number of days destined for their masters, varies in different provinces, and on different estates; but in none is it so severe or exorbitant, as not to leave them time sufficient to cultivate their own little land. In some parts of Poland, the peasants are often rich, or at least perfectly easy in their circumstances." —(Wraxall's Memoirs of the Court of Berlin, &c. 2 vol. letter 21.)

|| Litt. tit. Villeinage, sec. 177. Coke Litt. 118 b. Brooke Villeinage, pl. 14. 50., &c.

may well be amazed; since it was not only usual for villeins to possess personal property, to an amount considerable in those days, but to purchase lands and tenements, and even manors; nay, sometimes they bought the very manors to which they themselves as slaves were *regardant* or appurtenant.\* Our ancient law books in which records of judicial proceedings in those days are preserved, abound with cases which arose in consequence of acquisitions made by these bondmen, of real estates.†

The law of the Spanish and Portuguese colonies, in this, as in all other points, is more humane and liberal than that of the British islands. The money and effects which a slave acquires by his labour at times set apart for his own use, or by any other means, are legally his own, and cannot be seized by the master.‡

Here also, the institutions of the coast of Guinea, might put our colonial codes to shame. The slaves, or men whom the slave-traders and their partizans represented as being in that state, while in their native Africa, may acquire property, aye, and very extensive property too, which their sable masters cannot take away. I cite in proof of it, an anecdote given by one of the most zealous witnesses and delegates of the town of Liverpool, before the Committee of the Privy Council. “ The “ Government of New Calabar is nearly similar to that of “ Bonny, &c.— There is a man there called Amachree, who “ has more influence and wealth than all the rest of the “ community, though he himself is a purchased slave, brought “ from the Braspan country; he has offered the price of a “ hundred slaves for his freedom; but, according to the laws “ of the country, he cannot obtain it, though his master, who “ is an obscure, and a poor individual, would gladly let him “ have it. It is contrary to a fundamental law of the coun- “ try, that a purchased slave should become free; and the “ priests, who are interpreters and guardians of the laws, are “ afraid, if it should be permitted in the case of this man,

\* Br. Ab. tit. *Villeinage*, pl. 58—47, 64.

† See the Abridgements of Brooke and Viner, and Coke Litt. under the title *Villeinage*.

‡ Privy Council Report, Part VI. tit. *Spain and Portugal*.

“ of establishing a dangerous precedent. It is a small country, and they are apprehensive that the purchased slaves, if emancipated, should make themselves masters of it. Notwithstanding the *great influence and wealth of this man*, his power is, in many instances, restrained by his condition of *slavery*.” \*

From this country, I beg the reader to remark, slaves were brought to *improve their happiness* in the British West Indies; for such some of our planters, or their witnesses, were pleased to assert was the consequence, if not even the motive of their removal.

A comparison between the states called slavery in those two opposite quarters of the world, in point of treatment by the master, will belong to another part of this work; but I would here shortly infer from the fact related by Mr. Penny, that the poor African master was either a miracle of generosity, or he was not legally armed, like a West India planter, with the power of the dungeon, the chain, and the whip.— “ A ‘little of this *iron*,” said a poor but warlike barbarian, “ will win all that *gold*.” — “ A little of this *thong*,” might the poor African master have said, had he possessed West Indian authority, “ will make you glad to give some part of ‘that hundred-fold value of your’s, to relieve my necessities ‘— I need not, therefore, solicit the state for a licence to ‘supply my wants, by selling to you your freedom.”

It is indeed alleged by the colonial party, that though the master is legally entitled to all property acquired by the slave, he never asserts that title; and, with a few exceptions, I believe the proposition to be true. The slave’s little property is, indeed, sometimes seized by way of punishment, or as a mean of obtaining restitution of property suspected to have been stolen from the master; but upon purely sordid principles, I remember only one instance of such an exercise of the owner’s power, and in that, his conduct was generally condemned.

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\* Evidence of Mr. Penny, P. C. Report, Part I. title Government, Religion, Manners, &c.

But in making this admission, let me not be supposed to countenance the insidious and gross exaggerations that have been made of the amount of the property which is the subject of such abstinence.— The truth is, that excepting their coarse and scanty clothing, and a few rude implements for culinary purposes, with a bench or stool, and a pallet to sleep on, the common field negroes have, in general, no effects or property whatever. The drivers and head tradesmen, as they are called, of an estate, viz. the sugar-boilers, distillers, coopers, masons, &c. and the favourite domestic slaves, sometimes acquire a little money, and often have their goats, pigs, or some other articles of live stock.— In a rare instance or two, they may, by long saving, amass a considerable sum of money; but these are beings quite of a superior order to the human herd who work under the whips of the drivers; and to form our ideas of the general situation of the slaves, from that of the drivers and tradesmen, would be just as rational as to estimate the condition of our working poor, employed in the ordinary labours of agriculture, by that of our well paid mechanics and artisans. To keep this important distinction out of sight, and assert of the general situation and treatment of plantation slaves, all that can truly or speciously be represented in respect of the drivers, tradesmen, and domestics, have been among the most successful of the many disingenuous expedients to which the apologists of the system have resorted.

**RULE VII.—THE SLAVE, IN THE BRITISH COLONIES, IS AT ALL TIMES LIABLE TO BE SOLD, OR OTHERWISE ALIENED, AT THE WILL OF THE MASTER, AS ABSOLUTELY, IN ALL RESPECTS, AS CATTLE, OR ANY OTHER PERSONAL EFFECTS.**

**RULE VIII.—HE IS ALSO AT ALL TIMES, LIABLE TO BE SOLD BY PROCESS OF LAW, FOR SATISFACTION OF THE DEBTS OF A LIVING, OR THE DEBTS OR BEQUESTS OF A DECEASED MASTER, AT THE SUIT OF CREDITORS OR LEGATEES.**

**RULE IX.—IN CONSEQUENCE OF A TRANSFER IN EITHER OF THESE WAYS, OR BY THE AUTHORITY OF HIS IMMEDIATE OWNER, THE SLAVE MAY BE AT ANY TIME**

EXILED, IN A MOMENT, AND FOR EVER, FROM HIS HOME, HIS FAMILY, AND THE COLONY IN WHICH HE WAS BORN, OR IN WHICH HE HAS LONG BEEN SETTLED.

It will save time, and prevent the necessity of repetition, to consider these three rules collectively.

To cite authorities for them is needless ; for they have never been disputed, are notoriously in daily use, and have been noticed, or tacitly assumed by every colonial writer. Yet they will be found, I conceive, to constitute a branch of this oppressive slavery, the cruelty of which is beyond the range of precedent, as well as totally untouched by any specious apology that has been offered for the system at large.

If it has been the common lot of agricultural slaves, to endure more labour than other bondmen, it has, on the other hand, been their advantage, not only to be less exposed than domestics, to the personal caprice and ill temper of a master, but to have a far greater stability of situation, and a surer possession of their families, and of the property they have been permitted to acquire. Self-interest, and convenience, have also every where suggested to the landholder, to allot to them portions of his soil, by the tillage of which they might provide for the subsistence of their families ; and to limit his demands to that disposable surplus of labour which they might be able to bestow on his own domain. Hence, by a natural gradation have arisen, first, an inseparable connection with, and afterwards a qualified property in, the lands by which they were sustained. Personal freedom, has been only the last link in a chain of natural consequences, by which the enslaved husbandman has been elevated from the hapless state into which the barbarous warfare of an iron age had plunged his progenitors. Man, thrown down by the hand of violence, has regained, like the giant *Antaeus*, his pristine powers, by contact with the renovating soil.

It has been taken as undeniable by the few writers who have preceded me in this path, though they have almost all been apologists of negro slavery and the Slave Trade, that the *adscripti glebae* or *adscriptitii*, of the Roman law, and the territorial bondmen, who have been known by the description of serfs, villeins regardant, and other equivalent descriptions,

in more modern times, could in no case be separated from the domain, to which they were once attached. If, therefore, I wished to reason on any but the soundest premises, the pages of my opponents might be quoted for the unqualified truth of that proposition. But, from such researches as I have been able to make, it appears to me that men of this condition might, in some countries, at least and under some particular circumstances, be aliened without the domain, or without the whole of the domain, to which they belonged. I therefore lay down the rule only as generally true; subject to a few exceptions in point of law, of which the lord very rarely availed himself.\*

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\* It seems clear, that under the Roman law, the *adscriptitii* could not be severed by sale, from the domain to which they belonged. Voet, in his Commentary on the Pandects, is express on the point: — “Quales fuerint *adscriptitii*, *praediorum* nempe magis, quam *personarum* servi, simul tamen *cum praedio* cui *adscripti*, in *dominio* *dominorum* *fundi* *constituti*, *sine fundo*, *nec alienandi*, *nec legandi*.” (Voet ad Pand. Lib. i. tit. 5. S. 5. See also id. tit. 8. S. 15.) Yet it appears from Heineccius (Elem. Juris. Germ. Lib. i. tit. 1. Sec. 40.) that the *homines proprii* of Germany, whose condition, in general, he compares with that of the *adscriptitii*, might, in some cases at least, be aliened without the land or farm to which they were appurtenant. He intimates, indeed, that if aliened in this way, they might, upon just grounds of objection, be relieved. “Quamvis si, *sine praediis* *alienantur*, *ipsique justas refragandi causas* *allegant*, *omnino sint audiendi*” — but what these just exceptions were, he does not mention.

Potgieser, in his learned work on the German slavery, states, that the *homines proprii* might be aliened, not only with, but even without, the soil; but this is stated cursorily, and argumentatively, in support of the author's opinion on a controverted point, viz. to prove that the *homines proprii* ought to be considered as slaves; the contrary of which, it seems, was maintained by many learned civilians. (Lib. i. Cap. 3. Sec. 51.) The power, therefore, may, without impeachment of the author's accuracy, be supposed to have been qualified, and liable to many restrictions.

Our own Littleton (Sec. 181.) intimates, that a *villein regardant* might be severed by the lord's deed from the manor to which he was annexed, and thereupon became a *villein in gross* to the grantee.

But here a difficulty arises, which did not escape the penetration of that very learned lawyer, Mr. Hargrave, in his celebrated argument in the case of Somersett the negro; for it is laid down by Littleton, and all the authorities, that a *villein* could only be claimed by prescription or by confession in a Court of Record; and the lord was obliged to prove the fact of slavery, by producing in court at least two of *his own villeins*, descended from the same male stock, who should not only prove their consanguinity with the

That the oppressive authority in question, if it existed, was a grievance rather in theory, than practice, may be inferred from the rapid decline, and early extinction in England, and in most other European countries, of the personal species of slavery, while the territorial, long continued to exist very extensively, and in some countries still survives: for, if the latter could have been converted into the former at the master's will, and if such conversions had been frequent, it is probable that personal slavery would not wholly have disappeared, while the territorial remained as a copious reservoir out of which it might be recruited at pleasure.

Littleton, the strongest, and, I believe, the only original authority, for the existence of such a power in the English lord, informs us that a villein regardant, when once severed from the manor, became a villein in gross, or personal slave; and it results clearly from his rules as to the origin of the state, that there could not be a re-conversion of the same man,

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party claimed, but acknowledge themselves in court to be villeins *to the claimant*. Till this was done, the other party was not even obliged to plead to, or answer the claim — how then, could a grantee avail himself of the title he acquired?

All the authorities are agreed on these points; and the ancient forms of pleading, as preserved by Rastall, confirm them. "Yet," says Mr. Hargrave, "this is so irreconcilable with the lord's right of granting villeins, as stated by Littleton, that I will not insist on it here." (See his printed Argument, p. 39. and notes.)

It is further remarkable, that among the very numerous cases in the old books respecting villeins, the great industry of Mr. Hargrave could discern but two or three, in which the party was claimed as a villein in gross; and in the only one of these cases in which the title is distinctly set out, it appears that the man had been severed from a manor on an occasion very consistent with the general restraint of such alienation. The manor had descended on two joint tenants; and on a partition the manor was allotted to the one; the villein in question, with some lands, parcel of the manor, to the other. He continued, therefore, on part of the domain to which he formerly belonged; though, being severed from the manor, he could no longer be claimed as a villein regardant.

May not cases of this kind, have been the only ones, in which the lord's right of alienating annexed villeins, without the manor, existed? and may not the difficulty above stated be obviated, by supposing, that in such cases the production of villeins belonging to the same manor of which the lands were held, or from which they had been severed, was sufficient?

or his descendants, into the former condition: yet there is great reason to suppose, that there were very few villeins in gross, within the kingdom, so early as the reign of Edward II.; and, prior to that of Edward VI., there was not one remaining; while manorial villeinage was not wholly extinct, at so late a period as the 15th year of James I.\*

Among the ancient Germans, their slaves were all of the agricultural class; and seem to have been, in point of treatment, elevated far above the adscriptitii, or villeins regardant, and even beyond the *privileged* villeins, or villein *socmen* of England; for if Tacitus's account be correct, their services were neither uncertain, nor of a base or servile nature.†

Afterwards, when that simple and virtuous people had learned the arts of luxury from the Romans, they adopted the use of domestic slaves; and had, as seems always to be the case where this institution prevails, a profusion of them, both in number, and in the variety of their functions.‡ But, in more recent times, the ancient state of things insensibly returned, domestic slavery falling again into general disuse; and the homines proprii, or modern slaves of Germany, were solely employed in the culture of the soil, while domestic offices were performed by persons of free condition.§ If, therefore, the power under consideration existed in Germany, as it seems on the same authority, in some degree, to have done, the same inference may be drawn. It was a power which masters so rarely exercised, that it cannot be said to have materially aggravated the practical evils of slavery.

I apprehend that a similar progress of manners has nearly

\* The Author of the *Mirroir*, who wrote in Edward the Second's reign, mentions only villeins regardant. Sir Thomas Smith, who was secretary of state to Edward VI., says, in his *Commonwealth*, b. ii. cap. 10., that in his time he never knew a villein in gross throughout the realm.—See Mr. Hargrave's argument in the *Somersett Cause*.

† “Non enim Germani, servis Romanorum in morem, descriptis per “familiam ministeriis, utebantur: sed suum quisque sedem, suos penates “regebat. Frumenti modum dominus, aut pecudis, aut vestis, ut colono “injungebat. Et hactenus parebant.” (Tacit. de Mor. Germ. cap. 25.)

‡ Potgues. lib. ii. c. 3. s. 5. Heinec. Elem. Jur. Germ. tit. 1. Sec. 28. in notis.

§ Heinec. ubi supra.

put an end to domestic or personal bondage in every part of Christian Europe, in which any species of slaves may yet be found; and I doubt whether, in this part of the globe, there are any men employed in agriculture, who are liable, by the authority of a private master, to be sold, except in connection with the domain to which they are attached.\*

From the habits of domestic servants, stability of situation is obviously of far less importance to their happiness, than it is to that of peasants who know the blessings of a family and a settled home; or of whom, in the emphatic words of Tacitus, it can be said "*suam quisque sedem, suos penates regebat.*" Nor, except in the highly unnatural and unhappy circumstances of our West Indies, is it likely, where even the law permits their arbitrary removal, that such men should be often removed.

Where the master himself is stationary, and in countries where lands pass for ages by descent from father to son with the moveables appurtenant to the soil, the owner can rarely have a motive for removing his agricultural slaves from an established domicil; and where there is no regular and certain man-market, in which a new stock of peasants can be bought, an estate will hardly be purchased without the slaves which have been usually employed in its culture, though the connection between them should be dissoluble in point of law.

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\* I understand that there are personal as well as territorial slaves in Russia; but the instructions of Catharine the Second to her commissioners appointed to frame a new code of laws for the empire, shew, in various places, that the enslaved peasants are in general attached to the soil they cultivate.—In the divisions there given of the lowest class of the people, (2d part of the particular law, Article 5.) slavery is distinguished into *real* and *personal*. "*Real* slavery is defined to be that which renders " a man dependant and *attached to that place or land in which he finds himself situated;*" and *personal* slavery is said to " *regard domestic servants only.*" But it is added, " *sometimes*, both the *real* and *personal* " are united in one and the same individual." The meaning here is obscure; but, judging from the context, from other passages in these instructions, and from the reason of the case, I should suppose the sense to be, that slaves may be domestic servants, and yet attached to the soil on which the master inhabits; in the same manner with *real* slaves, or agricultural peasants.

Of the liability of slaves to be seized and sold separate from the lands they cultivate, by the master's creditors, for the payment of his debts, it may safely, I believe, be pronounced, that a precedent for such cruel injustice is not to be found in any part of the Old World. In this, as in many other points of colonial oppression, it is an *unique* in the history of mankind.

Yet, had such an iniquitous law existed in any other country, ancient or modern, it would have been of little moment to the slave, compared to its terrible effects in the West Indies. In no other country has the lord of a domain to which slaves were attached been, like the sugar planter, a manufacturer, a merchant, and a speculator in the fluctuating value of lands, bought upon credit. In no other circumstances has bankruptcy been the ordinary lot of a majority of the proprietors of the soil.

In other countries, in which the sale of slaves has been permitted, we find restrictions, at least as to the place of removal. Even the Spartan helots could not be sold into foreign countries\*; and, indeed, so much were they the slaves of the state, rather than of individuals, that a change of masters and of place could rarely happen, even within the narrow limits of Laconia. But distinctions still more important, as has been shown, placed these unfortunate bondmen, the reproach of Sparta, and the bye-word of antiquity†, far indeed above the level of the slaves of Christian Englishmen.

In Germany, and in most other parts of Europe, the same restriction prevailed. During the utmost rigour of slavery in the dark ages, masters were prohibited from selling their slaves beyond the limits of the state or province to which they belonged; and this under the severest penalties.‡

Let it not be supposed, that a restriction like this would have no practical importance in our colonies. The being sold into a foreign country was, till restrained by the

\* Barthelemy's *Anacharsis*, vol. iv. cap. 42.

† It was a proverb, that at Sparta the freeman is the "freest of all men, and the slave the greatest of slaves."

‡ Potgies. lib. ii. cap. 6. s. 5.

abolition acts, no unusual fate of the unfortunate negro\* ; and he is still, most inconsistently with the spirit of those laws, liable to be, and frequently is, removed to a different English island : by which he is as effectually divided for life, from his family and his native place, as if banished to Brazil, or the Mexican mines ; and this, not as a punishment for any fault, but purely for the interest of his owner.

The law of our islands, in this respect, is not only more rigorous than any code that has ever been known in Europe, but surpasses in cruelty that of the foreign West India settlements.

Plantation slaves, not only in the Spanish and Portuguese, but in the French colonies also, are real estate, and attached to the soil they cultivate, partaking therewith all the restraints upon voluntary alienation to which the possessor of the land is there liable ; and they cannot be seized or sold by creditors, for satisfaction of the debts of the owner.

With regard even to domestics, the power of alienation, where it prevails, is modified by various restrictions, founded upon humanity towards the slave. — There is a wise and merciful provision in the *Code Noir* (Art. 47.), which prohibits the selling of the husband without the wife, the parents without the children, or *vice versa*. Sales made contrary to this regulation, if by process of law under seizures for debt, are declared void ; but if voluntary on the part of the owner, a wiser remedy is given — the wife or husband, children or parent, though expressly retained by the seller, pass by the same conveyance to the purchaser, and may be claimed without any additional price. The most express and solemn stipulation between the parties, contrary to this rule, has been adjudged to be void ; “ and this law,” says the Compiler of the Annals of the Sovereign Council of Martinique, “ has always been rigidly executed, whenever a claim has “ been set up on the part of the purchaser. I have

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\* Edwards's West Indies, vol. ii. book iv. cap. 5. See also recitals in the Acts of Jamaica, 9 Geo. III. cap. 13. 17 Geo. III. cap. 7. and 23 Geo. III. cap. 14.

“ known,” he adds, “ slaves who have been sent to Guadalupe, or St. Domingo, to be expatriated and sold, to reclaim their children remaining in our colony with success, through the actions of the purchasers, in the colonies to which they were sent.”\* Had these unfortunate parents been English colonial slaves, their children would have been lost to them for ever. There is, with us, no restraint whatever, upon this extreme and cruel use of a master’s power.

Let us next turn to *Africa*.

Our planters heretofore relied for their justification on the alleged misery of the natives of that country, and on an assertion, that the slavery of the coast of Guinea is more cruel and unjust than their own; but I am sorry, for the honour of my country, and of the Christian name, that this pretence is as groundless in point of fact, as it is impotent in moral estimation. Before my pen desists from its present labours, it shall be made manifest, from the clearest evidence, that the British yoke is, in all respects, more intolerable than the worst that is known in Africa: and in the points we are now considering the superiority of the latter is extreme.

There are two sorts of slavery in Africa; the one for home use, the other for exportation. That the subjects of the latter are alienable, and may be sent from their homes and country, is unquestionable. But the state which exposes them to this treatment is created for that very purpose. It is a manufacture, if I may so speak, fabricated solely for the foreign market; and it is so clearly distinct from the condition of that large class of men in the negro states whom our traders have generally thought fit to describe by the same vague appellation of *slaves*, that a man cannot be subject to the one, till he has previously been deprived of the civil rights which belong to the other.

The native slavery, which, for distinction’s sake, I shall call the “ *vassalage*” of Africa, does not even render a man more liable than others to be converted into an exportable slave. *Freemen* are equally obnoxious to that fearful change of con-

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\* *Annales de la Martinique*, tome i. p. 285.

dition; which is chiefly produced by four general causes, — “insolvency, criminal judgments, kidnapping, and captivity in war.”

Nor is the state, when thus contracted, one that can long exist on that continent; but only while the slaves are on their passage from the place of their capture, or condemnation, to their receptacles in the holds of the slave-ships; or, at most, while they are detained in confinement, awaiting their European purchasers: for if from humanity, from the want of buyers on the coast, or from any other motive, the African owner places them for a short time in his family, or as labourers on his ground, they are thereby enfranchised from this penal species of slavery, and become fixed vassals, like his native servants. A year's continuance in the owner's service, at the most, will suffice to produce this effect.

These principles of African law will be found sufficiently clear, not only from the accounts of travellers, but from the evidence taken before Parliament, and the Privy Council.\*

There is, then, for these shocking points of the West India master's authority, the perpetual, unqualified power of selling and removing his slave to whom and whither he pleases, no precedent to be found in the barbarous institutions of Africa, any more than in those of Europe. The negro natives are guilty indeed of creating such an oppressive power for the use of their white seducers, but have too much feeling to retain it for their own. In Africa, men are not sold or exiled in consequence of being slaves, but are enslaved for the very purpose of being exiled and sold. Yet, if that purpose is not immediately accomplished, the mercy of African laws arrests its execution. It is only while the wretched slave is a stranger, and perhaps an enemy, or a delinquent recently condemned, that the sable master is cruel enough to retain him in that dreadful and transferable state which, under Christian Englishmen, terminates only with his life.

Since Africa will not furnish a pattern for this feature of colonial despotism, I will search no further for a precedent.

But let us observe more particularly to what this unqualified alienability amounts.

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\* See the Appendix to this part of the work, No. 2.

The slave in our colonies, at every moment of his life, however long, after any period of services, however faithful, is liable to be torn at once, and for ever, from his home, from his friends, his family, his wife, his children ; from all, in a word, that is dear to him upon earth ; and to be sent to serve a new master, in a distant island or territory, during the rest of his miserable days. Such, indeed, is the personal restraint incident to this slavery, that distance of removal is not necessary to give to separation its full bitterness. The wife and husband, the parent and child, if sold to different masters, in different counties of Jamaica, or even at the opposite extremities of smaller islands, are effectually divided for life.

Transfers of property, from which such cruel consequences may, and often do, result, may be effected in all the various ways in which lands, or even household goods, may change their owners in this country. The slave passes to a new master by will, by marriage settlement, by gift, sale, demise,—in short, by every species of conveyance.

Nor is it only in cases of voluntary alienation, against the evils of which some protection might be hoped from the humanity of a master, that the state of a slave subjects him to these cruel revolutions. He passes, on the death of an intestate master, in some colonies, to the next of kin as a chattel ; in others, as real estate to the heir at law ; and in either case, it is probable, from the different tenures and interests which often distinguish the land and the slaves in the succession, that he may know his natal place and long-established domicil no more. If, as it ordinarily happens, the dearest relatives of the slave belong to neighbouring estates, and are the property of different owners, these also, as well as his home, may be lost for ever by the death of his immediate master.

Nor is it always possible for the new lord of his temporal destiny to save the poor negro, in these cases, from such a sad shipwreck of his happiness. The successors to the property of the deceased may be infants, or otherwise incapable of altering the disposition of the law ; or, it may be necessary that the slaves should be sold to pay the debts of their deceased owner ; or, a settlement may have indissolubly bound them to some other and distant estate, though the late master, having a life-interest perhaps in both, had continued them till

his death upon that domain to which they were originally attached.\*

Slaves are also liable to be sold in the life-time of the owner, for his debts, either by executions at law, or by decrees of courts of equity; and, in the former case, the laws of the islands have expressly enacted, that they shall be severed from the estates to which they belong: for the marshal, or sheriff, is

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\* The will of General Washington furnishes a remarkable illustration of this hardship.

It is due to his memory to observe, that though nursed amidst the prejudices of negro slavery, and a Virginia planter to the end of his life, he paid homage to truth and humanity at his death, by enfranchising his slaves. He, who well knew the true nature and effects of that state, but in a country where it is generally far milder than in our colonies, so much so as to consist with a very rapid increase of population, nevertheless felt it a debt of justice and benevolence to deliver his negroes from the yoke. Had Washington done this in his life-time, it might have been regarded as a sacrifice to popularity. On the other hand, had the delay been unexplained, this posthumous generosity might have been construed as impeaching his living conduct of avarice. He does explain the delay, but with a dignified simplicity in unison with his general character; for the explanation is rather an accidental result of the motive which he assigns for a future arrangement, than a defence purposely made. He possessed, it appears, a gang of negroes in right of his wife, with which his own had intermarried; and the former were, by the marriage settlement, limited, in default of issue of the marriage, to the representatives of Mrs. Washington at her death; so that her negroes could not be enfranchised.

From a motive of humanity, therefore, he postponed the freedom of his own slaves, till the death of his wife; and in giving the reason for it, he plainly discovers the cause of his past conduct. The tenderest ties of nature would have been broken, or their stability endangered, and many painful feelings, at least among Mrs. W.'s slaves, excited, had the common bond of connection been dissolved. Children and parents, wives and husbands, no longer of the same condition, or attached to the same estate, might have found reason to deplore the ill-judged generosity of their master.

Washington, not ostentatious, but sincere and judicious in his benevolence,—not anxious for popular applause at the expence of real good, forbore, for these reasons alone, to enfranchise his negroes, while they had in himself, or in one whose heart was equally well known to him, assurance of a lenient bondage, and could live among their connections in their long-accustomed homes. While this wise and amiable motive justifies the delay, the bequest itself impressively shows, what Washington thought of slavery in general; and Washington, be it remembered, did not judge of the state by report.

directed, not to take in execution, or sell, the land of the defendant, until he has previously sold his slaves; and only in the event of the latter not producing a full satisfaction of the debt.\* This species of involuntary alienation is notoriously a most copious and ordinary source of the rapid changes of property in our islands; and if the interposition of mortgages did not, in the case of plantation negroes, very commonly bind them to the land, the miseries here mentioned would be almost as general as the insolvency of the planters.

In leasehold tenures, it frequently happens that many of the slaves are the absolute property of the lessee of the land; in which instances, and many others that might be mentioned, the plantation negro often passes from the marshal's hammer, as the domestic always does, to a new domicil, as well as a new master.

That these aggravations of the state of slavery, when occasioned by the operation of law, are unjustifiable in their kind, and productive of very cruel consequences, is admitted by the colonial champions, and even by the Assemblies themselves. *Admitted*, do I say? — They have actually made this iniquitous branch of their own laws a subject of complaint and recrimination against the Parliament of Great Britain. By their own acts of Assembly, they have declared slaves to be vendible under executions, and expressly directed them to be sold separately from the estate they are settled on; and these acts they to this hour refuse to repeal; and yet the British Parliament has been charged with inhumanity on this ground, by one of the most specious and respectable of the colonial champions, and he has taxed the abolition party with inconsistency, for not endeavouring to correct the abuse.

“ But these, and all other regulations which can be devised for the protection and improvement of this unfortunate class of people, will be of little avail, unless, as a preliminary measure, they shall be exempted from the cruel hardships to which they are now frequently liable,—of being sold by creditors, and made subject, in a course of administration by executors, to the payment of all debts,

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\* See the Court Acts of the different islands in their printed Books of Laws.

“ both of simple contract and specialty. This grievance, so  
“ remorseless and tyrannical in its principle, and so dreadful  
“ in its effects, though not originally created, is now upheld  
“ and confirmed by a British act of Parliament; and no less  
“ authority is competent to redress it. It was an act pro-  
“ nounced by, and passed for the benefit of British creditors;  
“ and I blush to add, that its motive and origin have sanctified  
“ the measure even in the opinion of men who are among the  
“ loudest of the declaimers against slavery and the slave trade.  
“ The act alluded to, is the 5 Geo. II. c. vii., entitled ‘ An  
“ Act for the more easy recovery of debts in his Majesty’s  
“ plantations.’ Of the most violent of the petitioners to Par-  
“ liament, not one has solicited the repeal of this execrable  
“ statute. The Society in the Old Jewry, THOUGH APPRISED  
“ of the grievance, its origin, and the remedy, are silent on the  
“ subject. They are men of the world; and, with all their  
“ philanthropy, probably consider no rights so sacred as those  
“ of creditors. Thus the odious severity of the Roman law,  
“ which declared sentient beings to be *inter res*, is revived  
“ and perpetuated in a country that pretends to Christianity!  
“ In a few years a good negro gets comfortably established;  
“ has built himself a house, obtained a wife, and begins to  
“ see a young family rising about him. His provi-  
“ ground,—the creation of his own industry, and the staff of  
“ his existence,—affords him not only support, but the means  
“ also of adding something to the mere necessaries of life.  
“ In this situation he is seized on by the sheriff’s officer,  
“ forcibly separated from his wife and children, dragged to  
“ public auction, purchased by a stranger, and perhaps sent  
“ to terminate his miserable existence in the mines of  
“ Mexico, excluded for ever from the light of heaven; and  
“ all this without any crime or demerit on his part, real or  
“ pretended! He is punished because his master is unfor-  
“ tunate. I do not believe that any case of force or fraud  
“ in Africa can be productive of greater misery than this.  
“ Neither can it be urged, that, like some unauthorized  
“ cases of cruelty in the West Indies, it occurs but seldom:  
“ unhappily, it occurs every day; and, under the present system,  
“ will continue to occur, so long as men shall continue to be  
“ unfortunate. Let this statute then be totally repealed. It

*“ is injurious to the national character ; it is disgraceful to  
“ humanity. Let the negroes be attached to the land, and sold  
“ with it. The good effect of a similar regulation in the sys-  
“ tem of ancient villeinage has been pointed out and illus-  
“ trated by a great many writers ; and those persons who now  
“ oppose an extension of the same benefit to the negroes in the  
“ West Indies, would do well to reflect, that, while they arraign  
“ the conduct of the resident planters towards their slaves, they  
“ are themselves abettors and supporters of the greatest of all  
“ the grievances under which those unfortunate people continue  
“ to suffer.”*

Thus wrote the late Mr. Bryan Edwards, in 1793, in a work, the main object of which was to palliate the colonial system, and thereby avert the abolition of the slave trade.\*

The pretence for this representation was, that by an act of 5 Geo. II. cap. 7. negroes and land in the colonies were declared to be “ assets for the satisfaction of simple contract debts, and liable to be sold under executions ;” provisions which, if they had any effect at all, were so far from producing the grievances in question, that they obviously tended to prevent them ; because, as negroes, by the laws of many islands, are chattels, and the land every where real estate, a different rule of administration, and a different effect of legal process for debt, must often have necessarily separated the one from the other.

But had this statute really introduced a new law in the sugar islands ? By no means. Half a century before it passed, the rules which are the subject of this strange invective were law in most of those colonies, by their own local institutions ; and were so, long before the statute, in every island we possessed. These rules arose at first apparently, like the rest of their slave laws, from mere usage ; but the usage, in such analogy as the case afforded to English principles of law, was correct ; because slaves in all the islands were originally regarded as personal estate ; and even when acts were passed in some colonies to annex them to the land, as real property, for the purpose of inheritance, an exception was made in favour of creditors. But the

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\* Edwards's West Indies, 2d vol. book iv. end of chapter 5.

lands themselves, as well as the slaves, in those islands, have always been general assets, and always liable to be sold by execution for the debts of the owner. The insular acts, not only permit, but ordain, those separations of the slaves from the soil, against which Mr. Edwards so pathetically inveighed; for they require, that the slaves shall be sold under executions in priority to the land, and give a resort to the latter, only when the slaves are not of sufficient value to satisfy the debt and costs.

If it be asked, then, what was meant by these provisions in the act 5 Geo. II.? I answer, I cannot tell; unless it was intended for some of our then colonies on the continent of North America, where different laws may have prevailed. Perhaps the British legislature was as ill informed of the colonial institutions in the West Indies, at the time of passing that act, as at the time of its repeal; when the colonial party played off successfully the broadest *hoax*; if I may be allowed the term, upon the House of Commons, that ever was practised on a grave assembly.

Had this act declared that slaves should be sold *separately from the land*, as the colonial laws had previously established? By no means. It declared only that both slaves and land should be liable to debts of the same degree, and to the same process of execution.

Under these circumstances, however, Mr. Edwards came forward in 1797, with observations and complaints, like those contained in the passage above cited from his work; and, greatly to the repute of his humanity, and that of the colonial party who supported him, moved for a repeal of this clause in the act 5 Geo. II. cap. 7., on the alleged principle of relieving the slave from a grievous and intolerable hardship which that law was represented as producing.

The abolition party inadvertently gave credit to the representation; and an act of repeal, the 37 Geo. III. cap. 119., was immediately passed, with great eclat to the colonial benevolence which had projected it.

This repealing act is, to be sure, on the very face of it, most strangely and incomprehensibly at variance with its own principle; for it neither enacts, that the lands and slaves shall be sold together, nor that neither shall be sold; but it

repeals so much only of the 5 Geo. II. c. 7. as relates to negroes. The consequence, therefore, would be, supposing British statute law to regulate the subject at all, that the very evil which the repealed act was falsely alleged to produce, would be produced by the act of repeal; for the *land* would continue liable to be sold under 5 Geo. II., while the *slaves* would not be so liable; and the latter would obviously be torn from their settlement, by the estate alone being sold from the debtor to whom they belong, as effectually as if they themselves were to be sold from the estate.

But the truth is, that neither the one act of parliament nor the other have had any operation whatever, except that of treating the colonial party with a laugh at the expence of their opponents, and procuring them at the same time some false credit in the eye of the public; for to this hour not one of the colonial legislatures has begun to amend the laws of the islands, in conformity to the principle of Mr. Edwards's bill. Their attention has been since specifically called by his Majesty's ministers to this interesting subject, as well as to that of the melioration of the condition of their slaves in general; but so far have they been from giving effect to the benevolent intention of Parliament, by repealing their own acts, and attaching the negroes to the soil, that when these humane measures were suggested by Government, the suggestion was treated with contempt\*; and the liability of slaves to be sold by legal process, is still left every where on its former footing.

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\* See the Duke of Portland's Circular Letter of 23d April, 1798, (Papers of 1804, Ho. Com. A. 5, 6.) which enquires, among other things, "Whether in consequence of the act passed last session (Mr. Edwards's bill) whereby the law was repealed which made negroes chattels for the payment of debts, the legislature would be disposed to secure the negroes on a plantation from being liable to be seized for any future debt of their masters, contracted after passing a law for that purpose, &c.; and whether the legislature would, by its authority, unalienably attach the negroes to the soil, &c.?" To these suggestions I find no answer from any of the colonial assemblies. And see, as to Jamaica, Lord Balcarres's Letter to the Duke of Portland (same papers, G. 52. No. 8.) "I am sorry to report, that the House of Assembly positively declined giving any answer."

These are facts, which all who are still credulous enough to expect reformation from that quarter, or to believe that the true feelings of the colonists are fairly represented by their public partizans in this country, are bound in conscience fairly to consider ?

But, after all, to what extent did the colonial advocates profess a wish to reform this branch of their own system, when they modestly attempted to impute its injustice to the British Parliament ? They admit the cruelty of separating a slave from his home, and his family, by execution at law; but on the various other and ordinary means by which the same oppressive and inhuman effect is produced they are prudently silent. Is it then only when the transfer of property is effected by a marshal's bill of sale that it becomes, to use Mr. Edwards's emphatic language, "*a grievance remorseless and tyrannical "in its principle, and dreadful in its effects?*" Are the tortured feelings of the husband, or the father, alleviated by the consideration that he suffers, not through the master's misfortune, but through his sordid and unfeeling choice ?

Negroes sold under executions must at least be sold in the place in which they are found; and have a chance, consequently, of being bought by a neighbour, or by the purchaser of the estate they are settled on. But how often does a master send them to cultivate a new-bought estate, in a distant part of the same or in some other colony, or sell them there to strangers, as his views of self-interest may dictate ?

How many creole slaves, for instance, have been sent from the old islands to Trinidad, as they also copiously were to Guiana, till the abolition acts put a stop to the practice, in order to retrieve the broken fortunes of their masters by the lethiferous process of opening new lands ! Even when entire gangs are so removed together, — wives, husbands, and children belonging to neighbouring estates, must receive a last adieu. But this is the most favourable case; for, still oftener, the ablest and best-disposed male negroes only of the gang have been thus cruelly exiled from all they love, to their own extreme distress, and that of the wives, parents, and children, whom they left behind under the same unfeeling master.

In these, and a variety of other cases of a like kind, the interests and the rights (unexampled abuse of terms ! the

*rights* in another man's body and soul) of the slave masters would be impaired by restrictions; and therefore, I presume, as well as because no English statute could be pretended here to stand in the way of reformation, *these* "tyrannical and "remorseless grievances" are left not only unredressed, but unnoticed; while the grievance of a marshal's sale, for the satisfaction of creditors, is noticed, but unredressed.

Let me not, however, blame the planters or the Assemblies for these oppressions, without giving them the benefit of such countenance as they may be thought to derive from a recent act of the British Parliament; still less would I withhold from a particular colony, Antigua, the praise which it deserves for an example of an opposite character.

It being an effect of the abolition acts, that though slaves might be lawfully removed from one British island in the West Indies to another, they could not be sent from those islands to our newly acquired settlements on the South American continent, the insular slaves were thereby protected from a new and extensive use of this oppressive power of the master, to which, in consequence of those acquisitions, they would otherwise have been fatally exposed; for the new soil of Demerara and Berbice being far cheaper and more productive than the long-settled lands in our islands, a strong temptation has been presented to proprietors of estates in the latter to abandon or sell them, and remove their slaves, to form new settlements in the former. The temptation has been increased by the great deficiency of slaves in those new colonies for the culture of the cane lands already settled, which has raised the price of field negroes there to an amount very greatly exceeding their marketable value in any of our islands. Whether the insular proprietors, therefore, have desired to speculate in a new soil, or to throw up altogether the deep and losing game of sugar planting\*, and sell off their property, they have had the most powerful inducements, in either case, to remove their slaves to those continental settlements.

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\* Such in the West Indies it not only is, but always has been, as may be clearly demonstrated; and such it will soon infallibly prove, even in Guiana. But this is not the proper place for such discussions.

The plainest principles of public policy concur with the dictates of humanity in opposing such removals. To strip our old islands of their black population, for the sake of forming or extending sugar estates on the South American Continent, is to complete and perpetuate the ruin of the former; and to sacrifice our ancient possessions for recent ones, which we hold by a far more precarious tenure. What is far worse, this new slave trade is ruinous to the best colonial prospects of the philanthropist, as well as of the British statesman. It will obstruct and retard, if not finally arrest, the progress of those causes by which the mitigation and gradual termination of slavery would be the most surely and most safely effected.

When we contemplate this subject in all its existing and growing relations, especially those which belong to the political state of the American Continent, both on the north and south of the equator, and to the progress of revolution in all the countries by which the settlements in Guiana are surrounded, the impolicy of depopulating the Bahamas and other islands, for the sake of adding to the many millions of capital already invested in the soil of Demerara and Berbice, will be found so manifest, that the special permission of the practice, by a recent statute, cannot but excite surprize. If the supply of British colonial sugar did not at present exceed our home consumption, or if our planters could dispose of the surplus to foreigners at a profit, still such a sacrifice of our maritime and political interests, would be ill compensated by the commercial benefit; but when, on the contrary, the redundancy of the general supply is so great that the prices of sugar in every British and foreign market are become ruinously low, and when we are obliged for the relief of the planters to renounce, in great measure, both our ancient maritime system and the momentous rising interests of our East Indian trade, the folly of thus increasing so very costly an evil, becomes not less conspicuous than the cruelty and injustice of the means. It is with the latter only, however, that I have at present to do.

That it is unjust and cruel to treat innocent men, women, and children, as we treat atrocious criminals, by transporting them from their country for life, is a proposition which may

be thought to need no demonstration. But in the case of the oppressed Negro slaves, it is usually not enough for their advocate to refer to those principles by which the duties of man to man are in general determined, though too clear and too sacred for debate. He must contend for the obligation of those principles specifically in the case of this much degraded class; and must shew that the violation of them is gross, and beyond the reach of every specious excuse. The reason is, that we have here to do with a case of acknowledged wrong. Such at least the slavery of our colonies is, in the estimate of almost every man who has no interest in defending it. Those therefore who have been persuaded that it is nevertheless allowable to continue the state, are prone to regard every question that may be raised before them as to its incidents, with some jealousy of the moral topics that are addressed to them; as if the reasoner unfairly attempted to apply to the practice a purer standard of right than its nature can possibly bear. Allowances being made on such views, men know not where to stop; for there is no moral law, natural or revealed, that says to injustice, "hitherto shall thou come and no further;" injustice in every degree being prohibited by both. If I may warrantably enslave my brother for life, and his posterity for ever, because I deem it expedient, why not drive him for the same reason like a beast, work him beyond his strength, stint him of necessary food, and thus shorten his days? Why not banish him from his home and family, or even put him outright to death? The last, indeed, it may be said, is expressly forbidden by the Decalogue; but driving and transporting are, in that respect, on the same footing with slavery, which its apologists are fond of telling us is not prohibited in Scripture. That murder itself has not been excluded from the practical range of this licentious principle, I need not go far from my subject to prove. If it had not been thought by the defenders of the slave trade, that a high degree of supposed expediency would justify stealing and killing black men, as well as transporting them into perpetual slavery, the abolition controversy could not have outlived a single session; for, who ever doubted that those crimes were copiously involved in the trade? During twenty years it was necessary for the friends of justice and mercy to appeal incessantly to the parliament and people of

England against that atrocious system of iniquity, though man-stealing and murder, upon a gigantic scale, were its known and ordinary fruits.

We have repented (Heaven be praised for it!); but a new slave trade now exists between our colonies in the West Indies,—a slave trade not less cruel and destructive to the poor victims of it, than the former was to their African parents. The same false pleas of expediency protect it; the same fatal departure from moral principles has produced a like unlimited range of licentious sentiment in regard to it. May we in this case also relent, and not too late to save thousands of now devoted victims from destruction! \*

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\* This is a topic on which I had no design to enlarge when the last preceding sheet of this work was printed; because a bill was then depending in parliament for the consolidating and amending the abolition acts, by a certain clause of which the removal of slaves from one British colony to another was to be prohibited; and I was warranted, by information received from the authors and promoters of that bill, to believe that it would be supported by His Majesty's ministers, and would certainly pass into a law. The bill, however, after being passed by the Commons, was lost for the session, in consequence of opposition to that most important clause of it, in the House of Lords; and though the merits of the clause were neither decided upon, nor discussed by that House, but the ground of the rejection of the bill was the want of time for such discussion at the very late period of the session at which it was sent up to that House, coupled with an objection, to the fairness, I believe, or at least the propriety of inserting such new prohibitions in a bill for consolidating the provisions of existing acts of parliament,—I cannot, after this disappointment, continue to regard the reformation of that cruel branch of the slave law, as a measure, on the early adoption of which I may with perfect confidence rely. At the same time, I feel so strongly the enormous injustice and cruelty of the practice, and its gross inconsistency with the principles of the abolition, that if the British legislature, in whose sole province its prohibition lies, should refuse to put an end to it, when a proper bill for the purpose is brought forward, in the ensuing session, I shall think there is cause to despair of the correction of any branch of colonial oppression, however gross, except by the hand of an avenging Providence. I have felt it my duty, therefore, though at the expence of some deviation from the general plan and proposed limits of this work, and of further delay in its publication, not to dismiss this subject in a cursory manner, but to examine the inter-colonial slave trade with particular attention.

In the execution of this task I have unavoidably been led to notice and refute some sophistical arguments and delusive statements, by which this cruel species of oppression has been defended, and, strange to say, in one

**RULE X.—THE SLAVE MAY BE MORTGAGED, DEMISED, AND SETTLED FOR ANY PARTICULAR ESTATE OR ESTATES, IN POSSESSION, REMAINDER, OR REVERSION.**

That such, both in principle and practice, is the law of every colony, will not, I presume, be denied. In those islands in which they are declared by colonial acts to be real estate, there is no difference in these respects between the slaves and the huts they inhabit.

Where they are regarded in law as mere personal chattels, they are not less the subjects of mortgages, family settlements, and leases; in which they are generally included, with the lands they cultivate. In respect of remainders after an estate tail, it has been sometimes contended that as heir looms they may be legally the subjects of such limitations, though ordinary chattels cannot; but the contrary has been decided,

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instance at least, defended with success, before the British parliament; more especially the specious but most fallacious argument, “that the welfare of “ the slaves themselves, and even their subsistence, demands their removal “ from estates or colonies where the soil is so poor that sugar planting can “ no longer be carried on without loss, to richer lands, where they can be “ employed in that species of agriculture to advantage.” Nothing is easier than to demonstrate the utter falsehood of such views, when the facts of the case are known; and these are capable of being decisively established, even on the testimony of the colonists themselves, and of the very men by whom they are now perverted. But the statement of such evidence, and the necessary observations that arise on it, have given to this part of my work much more of a controversial than a didactic cast, and enlarged it far beyond those limits which are desirable, considering that the readers, whose attention I most wish to engage, are lawyers and statesmen; from many of whom I cannot expect a large allotment of their valuable time.

On these latter considerations I have resolved, though with reluctance, not to give to this dissertation, for such it may be called, a place in the text; but to reserve it, and such other argumentative parts of my work, if any, as may run to any considerable length, for an Appendix; so that the readers, for whose information or conviction they may be unnecessary, will not be obstructed by them in their way. The sequel of my observations, therefore, on the inter-colonial slave trade, will be found in the Appendix (No. 3.) to this part of my work; and I earnestly request of such of my readers as may doubt of the national duty of immediately abolishing that cruel practice, not to make up their minds on the question without perusing what I have there submitted to their judgment.

and is, I conceive the law: and the effect of the rule sometimes is, that the slaves and the plantation, though settled in the same way, pass on the death of the first tenant in tail to different owners, to the great embarrassment of the planter, and sometimes with cruel consequences to the slaves.

If the colonial legislators had not proceeded on that principle to which I have repeatedly had occasion to advert, considering slaves as mere property, without any regard to their moral rights as human beings, laws would long since have been passed to prevent their being made the subjects of leases or entails, or being devised or conveyed in what is called strict settlement; because, to commit so extreme an authority over them as slave masters possess, to those who have but a limited and temporary interest in their preservation, is to take from them, or diminish, the best security that the authority will not be fatally abused; and to lessen also the master's ability to maintain them in adverse times.

In point of fact, entails of this species of property are proverbially destructive. If I may venture to state the result of much professional experience and information on the subject, negroes held by a tenant for life, generally, if not always, decline in their number and value, far beyond what is customary in the same colony when they are held by a permanent tenure; and the remainder-man often finds his property deteriorated in this respect, in a way not less revolting to humanity, than difficult to repair.

It is not solely, however, from their direct influence on the treatment of the slaves, that entails of sugar estates are pernicious. The commercial nature, and precarious returns of such property, make it utterly unfit to be the subject of family settlements, like those which so usefully limit and postpone the alienability of landed property in England. If an underwriter, or general merchant in this country, whose business was so fluctuating and hazardous as in some years to give him a large income, and in others to subject him to such losses as nothing but his large private capital and extensive credit could sustain, were to devise that business for successive life estates, he would be thought absurd or insane; and yet the returns of a sugar plantation are not less unequal and precarious; nor

do its exigencies in bad times less demand extrinsic means of support.

The committing the destiny of these poor labourers for a term of years to a lessee is, though a very common transaction, at least equally indefensible. His object is to make the most of their labour during the term; and the temptation to overwork and underfeed, *the grand and fatal abuses of the system*, must obviously be much greater with him, than with a permanent owner; while the opposing feelings that ought to arise from that relation are proportionably less. True it is, the lessor generally endeavours to guard against such abuses, or rather, to secure himself from loss when they are practised, by what is called a "make-good bargain," namely, by a covenant from the lessee to pay for any reduction in number and value of the slaves during the term, by appraisement; and for the performance of this covenant, security is commonly required. \* But avarice is apt to magnify a present profit, in comparison with a future risk; and the lessee, if unsuccessful, is constrained perhaps by his necessities to be parsimonious in his allowances, and severe in his exactions of work. Like a farmer who has his rent to make good at the peril of a distress, and ruin, he thinks less of future consequences, though affecting himself by a deterioration of the demised property during

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\* When I first commenced practice in the Leeward Islands, forty years ago, these covenants had usually stipulated that there should be an appraisement at the beginning, and another at the end of the term, of the entire gang; and that the difference should be paid by the lessee in the event of a diminution, or to him, in that of an increase of value; but this gave occasion to many frauds; the lessor, who was generally an absentee, being much more exposed than the lessee, who was almost always on the spot, to unfair management and partiality in the re-appraisement. The progressive rise in the market prices of slaves also made much in favour of the latter; so that the reversioner had often a heavy sum to pay at the end of the term. To prevent such disadvantages, it afterwards became a more usual agreement, to appraise, at the end of the term, such slaves only as had been born since its commencement; and to allow on the other side the value, as fixed by the first appraisement, of the negroes since dead. But by this change the lessee is absolved from all loss by the deteriorated condition of the survivors of the original gang. He has an interest in keeping them alive; but no further.

the rest of the term, than of reducing his present expences, and obtaining a productive crop.

I never saw in any of these leases covenants stipulating for adequate allowances of food or other necessaries to the slaves, or for limiting their work in point of time or otherwise, or for restraining excesses in punishment. I believe no leases can be produced with any such stipulations, though the lessors of course have counterparts, and are almost always resident here. Such omissions are instructive.

Neither the selfishness and apathy of masters, nor their violence or harshness of temper, nor all the bad qualities perhaps collectively which this bad system tends to generate, are more destructive to the unfortunate plantation slaves, than the involved and necessitous circumstances in which sugar planters are so generally found. Another objection, therefore, to these limited and temporary tenures of slaves is, that they aggravate the danger to which the slave is exposed, of belonging to a needy and embarrassed man, which the tenant for life of a sugar plantation, without other property, can hardly fail in a few years to become.

This mischief, nevertheless, chiefly flows from the other mode of alienation, which I have here to consider, the conveyance of slaves by way of mortgage.

It is a most calamitous circumstance in the situation of these unfortunate beings, that the master who exacts their labours, and on whom alone they depend for subsistence, is almost always a mortgagor in possession; and for the most part one whose incumbrances are so heavy that little hope of redemption remains. That his estate is unmortgaged is, and always has been considered, in the West Indies, a rare distinction of the sugar planter. To owe more to his mortgagees than his estate is worth is his ordinary case; and that not only in the present, but even in prosperous times; and a man so circumstanced, must often want the means of providing at once for the payment of the current interest of his debts, and the necessary expences of the estate. As this is a case that will best exemplify the facts, and illustrate the important principles which I wish to establish, and as the existence of a large portion of the slaves in our colonies probably now depends on a speedy remedy being applied by parliament to some of

the evils arising from it, the conditional alienation of slaves by way of mortgage, is a subject worthy of more particular notice.

The laws of every colony not only permit, but favour, the practice of raising money without stint on the security of this property in man.

Parliament also, at the instance of the West India planters and merchants, has encouraged the practice; by enabling aliens to lend money on real estates and slaves in the colonies, and allowing mortgages of them to be made in England at a higher rate of interest than our laws in general permit.\*

The interior legislatures of some colonies and their courts together, have, for the further security of persons lending money on this species of property, against the common dishonesty of debtors, and lax administration of justice, devised a system of law and practice, little, if at all known, to the English lawyer. In some of our islands, not only judgments in ejectments, and actions of detinue, but possessory process under them, and executions for debt in the nature of a *feri* or *levavi facias*, under which, by the colonial laws, real as well as personal estates are liable to be taken and sold, are converted into instruments of conveyancing, for the further security of mortgagees. Executions are sued out, and lodged in the office of the provost marshal or sheriff of the island, and in some colonies with a *pro forma* levying upon, or taking in execution of the land and slaves; and successive executions, when so lodged, are regarded in law as so many mortgages, to be satisfied in their order if the estate is ultimately sold: but no sale usually takes place till the planter's situation is known to be wholly desperate; when some one or more of the execution creditors sues out his writ of *venditioni exponas*, or in some islands, simply directs the officer to proceed to a sale.†

\* See stat. 13 Geo. III. cap. 14., and stat. 14 Geo. III. cap. 79.

† In Jamaica, these cautionary executions are so very common, that the *venditioni exponas* is sometimes mentioned by gentlemen of that island as if it were the only process of execution under which estates and slaves could be sold. In some parliamentary debates on slavery, the taking away the writ of *venditioni exponas* has been spoken of as if that were equivalent to the rendering slaves in the West Indies no longer transferable by execu-

It will seem to West Indian readers strange to object to the laws of the sugar colonies, that they thus anxiously favour the practice of raising money on the security of slaves. It is a policy which they will see no reason to disclaim; for without large loans upon mortgage, how few of their plantations would ever have been settled, or afterwards changed hands at the enormous speculative prices which purchasers upon credit have given; and how few lenders or sellers upon credit could be found if the slaves were not comprised in the security. Nevertheless, these securities, and these high prices, produce very calamitous consequences to the slaves. For full proof of this, we need only advert to what the colonists themselves too truly represent, as to the effects of the unfortunate planter's debts and embarrassments on the subsistence of those his more unfortunate dependants.

For such authorities at the present period we have not far to seek. Almost every petition from the assemblies to parliament, or the throne, and every speech or printed argument of their agents or partisans in this country, may be referred to as containing pathetic and alarming intimations of the severe sufferings of the slaves from the want of food, in consequence of the general distress of the planters.\*

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tions at law for the payment of the master's debts. It may be worth remarking, therefore, that unless there is something peculiar in the law of Jamaica, the taking away that writ would leave this cruel incident of slavery just where it stands; except that the slaves must be sold under the primary execution, without the aid of that supplementary writ.

\* The petition of the assembly of Jamaica to his Majesty, dated the 7th December last, is the latest specimen of their language. "*It is to save our landholders and capitalists from ruin, and our labourers from absolute want, that we solicit the interposition of our sovereign. When these gloomy apprehensions are realised, it is to be feared that the numerous dependants of the British inhabitants of the West India islands will not be persuaded that their masters are innocent of their miseries, and their rage and despair may involve our country in anarchy and blood.*" — [Printed as an advertisement in the *New Times*, April 23. 1823.]

There is, I fear, some ground for the alarm which such representations are calculated to excite; though the same danger was held forth on the same authority, as equally imminent twelve years ago, and from the same cause.

"*From the impossibility of giving the usual comforts to their labourers, all are exposed to the effects of convulsions unknown to societies differently con-*

Now what is the cause of such deplorable evils in countries exuberantly productive of every tropical growth for which their soil is solicited ; and wherein, as its plaintive proprietors themselves tell us, the labour of a week will furnish subsistence for a year ? \*

Their clouds have not ceased “ to drop down fatness, nor their land to give its increase ;” they have been visited neither with drought, nor mildew, nor the destroying locust ; their crops have, during this long period of calamity, been generally not below the average, and sometimes unusually large ; yet

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“ *stituted. It is enough for us to allude to them without opening up their horrors.*”—[Petition of the Jamaica Assembly to the Prince Regent, of the 10th December, 1811 : printed by order of the House of Commons, of June 15. 1812.]

Though, without any cessation of the cause, the terrible effects here alluded to have failed to follow, and though these colonists have held forth the danger of general insurrections among their slaves so constantly, whenever they have any measure of humane reformation to avert, or any boon to solicit from parliament, that such alarms have, among the well-informed and reflecting, lost all their credit ; they would probably not prove groundless in this case, if negro slaves were not subdued and spirit-broken under the yoke of colonial oppression, far beyond what their masters will admit, or a stranger to the system can easily conceive ; for there can be no doubt of the reality of the alleged sufferings ; and forced labour, united with hunger, might seem enough to goad the most patient of the human race into a violent though hopeless resistance. Private accounts concur with these public papers in representing the sufferings of the slaves for years past, from a reduced allowance of food, to be severe beyond all former experience. I know that well-informed colonists now really dread insurrections from this cause, and am credibly informed that the black population is, in some of those islands at least, declining in consequence of it, with an alarmingly accelerated progress.

\* Mr. Barham, in his “ Considerations on the Abolition of Slavery,” has repeated this statement, which his brethren, the sugar planters, have often made before. A hundred West Indian authorities might be cited to the same effect ; and I have one at present before me, which may be the more satisfactory, because it comes from *Haïti*, where the theory is in some degree reduced into practice ; the negroes there working for themselves at their own choice, and many of them doubtless no more than the subsistence of their families demands.

“ *L'ambition n'agit guère les esprits sur un sol où l'homme qui travaille une demi-heure par jour, obtient sa subsistance pendant une semaine.*”—President Boyer's “ Defence of the Union of Spanish St. Domingo with the Haitian Republic,” published in “ *LE PROPAGATEUR HAÏTIEN*,” No. 1.

without bringing any relief by their abundance to the unfortunate cultivators.\*

What then is the alleged cause or excuse of this strange and calamitous state of things? Why are these poor beings, who, in a climate, and on a soil, that would yield them a year's subsistence for the labour of a week, are worked hard, not for one week in the year, but the whole fifty-two, to endure nevertheless the miseries of famine? The sole, the avowedly single cause, is, that their masters, because they are deeply involved in debt, and cannot obtain, for their sugar, which they still exclusively cultivate, adequate prices in the markets of Europe, have not money or credit enough to buy them food.

I stop not here to examine the justice of continuing, under such circumstances, to exact by the whip from the poor slaves all the labour they can yield in the cane pieces, instead of employing an adequate portion of it in the raising native provisions. I ask not whether the complainants do not virtually accuse themselves of extreme and cruel oppression. My business is at present with the *law*; which permits the master, when placed under an avowed incapacity of giving subsistence to his slaves, nevertheless to keep possession of the estate, and coerce them to work hard for his benefit; and makes no provision for obviating the cruel and fatal effects.

When public calamities, or abuses unknown before, are the fruits of new and unforeseen occurrences, no blame can attach on the legislature or the government, for not having prevented them, or prepared for them suitable correctives. If

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\* This, the following further extract from the petition of 1811 to the Prince Regent may serve to illustrate: "*The crop is gathering in, but its exuberance excites no sensation of pleasure; the proprietor sickens at the additional labour of his people, whilst he is unable to give them the usual remuneration of their toil.*"

"People" and "dependants," and "additional labour," "remuneration" and "usual comforts," are well-chosen terms in a paper framed for public use in this country; but the plain English is, that the slaves, though worked harder than ever under their drivers, to get in an extraordinary sugar crop, were half starved by a reduction of their former too scanty allowance of food; and whether the "proprietor sickened" or not, there can be no doubt that many of his unfortunate slaves did, and some of them unto death, by the effects.

therefore the cruel sufferings of mortgaged slaves in the sugar colonies through the indigence and embarrassments of their owners, were a calamity new in its character or cause, whatever we might think of the masters, the law-givers might be blameless. But the case here is widely different. Want of adequate subsistence among the slaves of an encumbered sugar estate is not a new-born, or occasional, but an old and perennial mischief; and that it is an ordinary effect of the planter's indigence and want of credit, evils to which, from the nature of his property, when deeply mortgaged, he is extremely liable, even in the most prosperous times, is quite notorious. It has been acknowledged at various periods by the most zealous partisans of the planters, and even by the assemblies themselves. \*

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*" And whereas many persons have often been prevented from supplying their slaves with sufficient food and clothing, by the encumbered state of their property; their plantations and slaves being sometimes charged with mortgages or other incumbrances to so great an amount, as upon a levy and sale thereof to leave no surplus or fund for the satisfaction of debts due for provisions, or for clothing furnished for the necessary subsistence of their slaves; and merchants have therefore been discouraged from selling provisions or clothing to persons in doubtful or embarrassed circumstances, to the very great distress and danger of the slaves, and also to the manifest prejudice of mortgagees or other creditors, whose securities may either wholly or in a very great measure depend upon the lives or good condition of such slaves: Be it therefore enacted, &c."*

These are the words of the general council and assembly of all the Leeward Islands, in their meliorating act. Yet where, and when, was it passed? Not in a colony impoverished by the failure of its soil; not at a period of general distress from the depressed price of produce; but in Saint Christopher, notoriously, for its size, the most productive of all the sugar colonies; and in the year 1798, the most prosperous era, as to the value of their produce, that those colonies ever knew; preceded by five years of a like prosperity, far exceeding all former example. It appears by official accounts annexed to the report of a Committee of the House of Commons on the trade of the West India colonies, printed by order of the House of the 24th July, 1807, that the average price of brown or Muscovado sugar in 1798, exclusive of all duties, was no less than *sixty-seven shillings and five-pence* per hundred weight, and that the average prices of the five preceding years, from 1793 inclusive, was *fifty-six shillings and nine-pence*. (See the printed Report, page 84.)

We have seen, also, that at a still earlier period, in 1788, the public agent of Barbadoes acknowledged before a Committee of the Privy Council, that the negro's allowance " depended on the circumstances of his masters; and

The uninformed may perhaps suppose that a planter, when he finds it impossible to carry on his business compatibly with the support and welfare of his slaves, will, for their relief and preservation, surrender the estate to the mortgagees. Such no doubt ought to be his conduct; as the late Dr. Collins, in his advice to his brother planters, has strongly and feelingly remarked\*; but very different is the ordinary course taken by such unfortunate men. They struggle hard to maintain the possession,

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that if a planter was too poor to pay the price of provisions for his slaves, they must suffer." (*Supra*, p. 55.)

In 1811, the late Sir William Young, that eminent planter and distinguished champion of the sugar colonies, being then governor of Tobago, in an official report made to the colonial secretary of state, and afterwards laid before parliament, made admissions to the same effect; though he made them with evident reluctance, and confined them to the *smaller plantations*. "As to the lesser planters," he said, "*the pressure of mortgages and personal need might induce them to scant and overwork their slaves;*" and to this he ascribed the excess of deaths over births, being greater in proportion, as he alleged they were, on small estates." — [Papers printed by order of the House of Commons, 12th July, 1815.] If there was in Tobago such a distinction on the side of the proprietors of large estates, as to be free from the pressure of mortgages, their slaves were in that respect singularly fortunate; but the other authorities that I have cited, and many which might be added to the same effect, notice no such distinction.

It is enough, however, that all authorities agree as to the consequence of such pressure on the master, where it does exist; namely, that the slaves are "*scanted and overworked;*" for this being given, it will be easy to prove, from evidence of the most decisive kind, and which no colonial opponent can cavil at, that the miseries to which slaves have been subjected from this cause, must at all periods have been enormously great; because it can be clearly shown that embarrassed circumstances, insolvency, and ruin, have always been the lot of a large proportion of the planters of the sugar colonies. — [*See many authorities to this effect in the Appendix, No. 4.*]

\* "As to those who are unfortunately in such a situation with respect to incumbrance and credit, as to be disabled from supplying their negroes as they ought, it behoves them to consider whether, by the utmost their undue savings can effect, they can possibly be retrieved from their embarrassments; and if they can, they ought seriously to ponder on the consequence by which their relief is to be obtained; that it must be by the blood of their own species — a horrid thought; and if they cannot, how much better would it be for them to surrender at once their properties to their creditors, and to repose in the humble, though exquisite enjoyment of peace of mind, &c." — *Practical Rules for the Management and Medical Treatment of Negro Slaves in the Sugar Colonies*, page 12. See note, page 51.

and to postpone the evil day of foreclosure or sale, which is to terminate all their hopes: and often, by the aid of such dilatory expedients as the law affords, they are long able successfully to resist the rights of their creditors or mortgagees.

The Assembly of Jamaica has not scrupled to attest that such is the common conduct of the planter, and that the effects of the contest is destructive. "He (the creditor) called for payment." (They are describing here not an individual, but general case, which they are imputing to the heavy taxation of their produce in England.) "Finally he obtained all that "the creditor had to give, the plantation; *but not without a destructive struggle, the remnant left to the unfortunate proprietor by the Treasury being wasted at law.*"\*

It is one of the many evils consequent on the very dubious value, and very fluctuating returns of such property, that the sinking planter and his creditors can rarely, if ever, agree as to the quantum of debt which the estate may be expected, within a given term of years, to clear; or the point at which it ceases to be an adequate security for the sums that are charged upon it; nor consequently as to the due measure of forbearance which in adverse circumstances the debtor may reasonably expect, or the creditors safely accord. Possession, therefore, is rarely given up without a quarrel, ending in a contest at law; except when experienced creditors are wise enough to avert the evils of such a contest by purchasing in the equity of redemption, however worthless, at a considerable price.

But neither are such unequal compromises likely to be made, nor the dreaded extremities, on the other hand, resorted to for recovering the possession by law, until long after the planter's difficulties have commenced, and until his income and credit both have fallen too low to admit of his at once providing sufficiently for the subsistence of the slaves, and the other expences of the estate, and keeping down the interest of the mortgages. When, therefore, we are told by the colonists themselves, that a great proportion of all the estates in the sugar islands have, in consequence of the insolvency of their owners, been sold or delivered up for the satisfaction of the

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\* Extract from the before-cited petition of 1811, to the Prince Regent.

debts charged upon them, within the last twenty years, we may conceive what cruel sufferings the slaves in those colonies have, during the same period, endured, before they passed from the possession of the ruined planters to the purchasers or mortgagees.

That these are cruel and utterly indefensible aggravations of the evils of slavery will perhaps not be denied. I will not, therefore, enlarge the body of my work with any arguments to that effect, or any additional statements on the subject; but if the reader wishes for further proofs that the ruin of the planters is in ordinary times a most extensive cause of misery and destruction to the slaves, he may find them in the number of the Appendix to which I have last referred.

What remedy, then, it may be asked, would I propose for these fatal mischiefs? Are they not, it may be asked, the unavoidable effects of a system which makes man the property of man, and embarks that property in so very hazardous a business as sugar-planting confessedly is? The planter, it may be added, cannot go on without mercantile credit; and how can he obtain it without mortgaging his land and slaves?

I admit that hazard and debt are essential to the system as it stands; for though the planters are perpetually telling us of the large capitals they have embarked and possess, those capitals, with few exceptions, are not, and never were, their own. Mr. Bryan Edwards, their accredited advocate, has truly told us that, "generally speaking, the sugar planters are "but so many agents or stewards for their creditors and an- "nuitants in the mother country \*;" and, speaking from forty years' pretty intimate acquaintance with West India affairs, I can fully confirm that statement. But though such is the common result of the sugar planter's speculations, it is only because he plays a deep and losing game, of which ruin is the ordinary issue. The law therefore, which permits such gambling, should prevent the subsistence and the lives of the poor slaves being made part of the stake. Their food at least should be put out of hazard, by compelling the planter, as the laws of the French islands do, to raise on the estate, provisions enough for their support; and when they cannot be properly

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\* History of the West Indies, vol. iii. book vi. chap. 5. page 438.

maintained, there should be an end of the game; for which purpose their subsistence should be charged on the mortgagee or his security when the mortgagor fails to provide it; and the former in that case should have the most effectual and summary means of obtaining the possession; and be compelled, at the peril of his security, to use them. He ought otherwise, to forfeit his priority to any posterior incumbrancer, or general creditor, who should choose to anticipate him in that conservatory course.\*

For one of these expedients we have a precedent even in West Indian legislation. The General Assembly of the Leeward Islands in 1798, passed an act, making debts contracted *bonâ fide* for the subsistence of plantation slaves by the party in possession, a lien in law on the property of such slaves, and of the estate; to whomsoever they belong, or by whatever title they are held.

I have already extracted the preamble of the forty-first

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\* The terrors of that ordinary "*struggle*," which the Jamaica Assembly too truly calls "*destructive*," are the main cause of that supineness by which the planter in desperate circumstances is often left in possession for years after his ruin is sealed; though he is known to be over-working and half-starving his gang. But how is the struggle maintained, and why is it thus terrific to mortgagees, whose legal title to the possession is clear? An adequate answer to these questions would involve much matter, which, though of vast importance, I must not detain the reader with in this place. I will only say that the bad administration of public justice in the West Indies is the grand source of these, as well as many other evils, of which the poor slaves are the victims. That defect perhaps could not be remedied quite effectually, without taking away, in such cases, the trial by jury (the just boast of England, but the bane of the petty colonial communities to which it has been absurdly imparted); for how can an English merchant and mortgagee expect an impartial verdict, where he cannot find a jury on which there is not a majority of necessitous planters and mortgagors, or their managers; and scarcely a man that is not a companion or friend of the defendant? But it would be an important palliative to reverse the preposterous policy of multiplying petty jurisdictions with supreme local powers, by uniting most, if not all, of our Windward and Leeward Islands under one set of courts. There might then be some chance of finding juries exempt at least from the bias of personal connection, though not from their sympathies as white men and indigent planters; and there might then be competent and independent judges who are not themselves slave-masters, and owners of sinking estates.

section of that act \*, to shew that the opprobrious evil now under consideration was recognized by this respectable and extraordinary legislature; and to shew also that it existed at a time when no general distress in the colonies, present or recent, was or could be alleged; but that the evil was fairly ascribed by these representatives of all the Leeward Islands to its true and ordinary cause.†

After the preamble, thus honestly reciting the mischief to be remedied, a most important enactment follows, the effect of which in substance is, that any debts which shall be contracted by the proprietor or possessor of any plantation, or *task-work-gang*, or by his attorney or agent, for the purchase of provisions or clothing for the slaves, shall form specific and prior liens or incumbrances upon all the slaves belonging to such plantation or task-gang, and shall be paid and satisfied in preference to any other debt or incumbrance whatsoever, although existing before the passing of the act, except debts to the crown; provided, that the provisions and clothing should have been sold and delivered within twelve months next before any action brought for the price.

While I give some of the authors of this law full credit for the sincerity of their humane intentions, I must observe that the remedy provided was very inadequate; because in giving to the distressed and embarrassed planter the means of subsisting his slaves, they did not compel him to use them; nor could they deliver him from the dreaded consequences of doing so; or of employing the means that he before possessed for the purpose. He would obviously not be the less exposed to dis-possession, sale, or foreclosure, through the dissatisfaction or alarm of his creditors, by the expedient of creating claims on his property prior in lien to their own, than by that of reducing his consignments. The immediate necessity of a cruel oppression was taken away; but not the strong temptation to it, which is its more ordinary cause.

The remedy, however, as far as it went, was right in its principle, and salutary in its tendency. That the necessary

\* See page 92. notes.

† The islands represented were Antigua, St. Christopher, Montserrat, Nevis, and Tortola.

subsistence of the slaves ought to be first provided for in all cases out of the proceeds of their labour, no man on this side of the atlantic will probably venture to deny; and, when no other means can be found for their immediate support, it is obviously for the benefit of all parties, that every subsisting charge should be postponed, rather than that they should perish for want of food, or have their health and strength impaired by a reduced and insufficient allowance. As in this case the dictates of justice and humanity are seconded by the clear voice of legislative prudence, and harmonize with every private interest; and as they are strongly enforced also by the great public interests of preserving the black population, and preventing those insurrections and convulsions of which famine is everywhere the most probable cause, the reader may be surprised to hear that the precedent thus made has not been followed. Twenty-five years, however, have elapsed since this act of the Leeward Islands was passed, and no similar law is yet to be found in any one of the seven other islands, which have separate councils and assemblies.

Happy would it have been for the unfortunate slaves of the Leeward Islands if the distinction had existed in practice as well as law. Very many of them would have escaped during the last twenty-five years, a premature destruction by actual famine; and thousands of them would have been rescued from sufferings infinitely worse than the most painful death; those exquisite long-protracted miseries incident to labour exacted by the driving whip, when hunger and inanition have debilitated the poor drudges to a degree incompatible with the ordinary amount of their constrained exertions.

I will not here further anticipate facts that more properly belong to the second division of my work: slavery as it exists in *practice*. But knowing as I do from information of every kind, that this grand and most destructive evil of the state now prevails, and has long done so in the Leeward Islands, to an extent beyond all previous example, and that the black population is in consequence more rapidly declining than before, I cannot forbear calling the attention of my readers to it in this place; especially as it will shew in a very striking manner the utter uselessness of colonial meliorating laws.

I have given due praise to the act of the Leeward Islands;

and some of its very intelligent authors, I am well assured, were in earnest. The act also settled carefully the minimum of the allowances of food; while by those novel but wise and equitable provisions that I have described, the planter was deprived of all excuse for not supplying those allowances, even in the worst of times. Penalties therefore were most justly imposed on all slave proprietors or managers by whom such necessary subsistence was in any case or in any degree withheld; and the owner or director was required once a-year to appear in the supreme court of the island he resided in, and make oath "that he had truly and fairly distributed, or caused to be distributed, among the slaves under his direction, the full ratio of provisions required by the act, under the penalty of 100l." \*

Now, what was the effect of these provisions? *From the very time of their enactment, general neglect, open disobedience, and impunity without exception, to every offender.* That the prescribed allowances have not been given, will hardly, I trust, be denied. A planter of Saint Christopher, several years after, in a pamphlet defensive of the West India system, published on the spot, remonstrated with his brother planters on this score; and treated the due execution of this act in respect of food as all that was wanting to maintain and increase the native population, and make the abolition of the slave trade harmless. †

But the utter fruitlessness of the law has since been publicly attested on still more decisive authority, that of the council and assembly of Antigua, in a very elaborate report laid before the House of Commons, and printed by its order of July 12th, 1815. The colonial governments being called on, pursuant to an address of the House of Commons, for copies or extracts of the public returns made pursuant to their meliorating acts, and of any records of convictions or prosecutions for default of them, were driven to admit in this case, as in almost every other, that those plausible enactments had been treated with universal contempt; for not a return, or the

\* See Sections 1 to 8.

† Mr. Caines's Treatise on the Otaheite Cane. I quote from memory, having lost or mislaid the work.

record of any prosecution for default of them was to be found.\*

There is a further hardship, of a cruel kind, to which the poor slaves are subjected by the effects of mortgages, and which also arises from leases, tenancies for life, and other limited estates, for which they may be settled: I mean, that of their obstructing manumissions. The owner, when he has included them in a mortgage, cannot manumit them without the concurrence of the mortgagee; nor the lessee or tenant for life, without that of the reversioner, or parties in remainder: and when a slave is held for a particular estate under a settlement, there may be no person or persons in being, competent to deliver him from the yoke of slavery, during a much longer period than his life is likely to last.

The intelligent and well-disposed slave is, under these circumstances, bereft of that hope which might animate his in-

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\* "The declarations required to be made on oath by the proprietors of slaves respecting the distribution of provisions, &c. &c. have not been made; nor have any prosecutions for the non-compliance with any or either of the said sections ever been instituted against the defaulters." (Papers of July 12, 1815, p. 142.)

The Report further informs us, that "the act could not for some time then past have been enforced without in many cases inflicting an annual penalty of 100*l.* upon many proprietors, who, though they might have been very desirous of complying with the law, were prevented from so doing by the unavoidable difficulties under which they laboured." (Page 143.)

Great pains are taken by the council and assembly to excuse or extenuate these shameful and reluctantly admitted facts; but on premises that are in part demonstrably fallacious; and all utterly insufficient, if true, to account for or palliate such general defaults as had existed, without exception, fourteen years; and from the moment of the promulgation of the act.

There is one paragraph, however, to the truth of which, when properly explained, I willingly subscribe: "There are many planters who had it not in their power to withhold any part of the produce of their plantations from their creditors, &c." Here the real case peeps out. The planters had, indeed, the power by the act in question in point of law. The whole fee-simple of their estates, as well as the produce, might have been pledged for the support of their slaves: but they had not the power of so diverting the proceeds, without risking the dissatisfaction of their mortgagees and the loss of their possession.

If this was a good reason for starving their slaves, the defence may have been valid: and the famine under which the slaves of these and other colonies are now groaning has the same, but no other excuse.

dustry, and sustain his spirits, and form the best bond of his fidelity. The master whom he serves, may inflict on him all the miseries of slavery, but can never raise him into freedom. He is potent to punish and torment; but impotent to reward, in the only way that can make the fruits of his favour lasting or secure. Should the unfortunate slave, who is the subject of an entail, be able, by extreme industry and self-denial, to save the value of his freedom, or find a friend kind enough to advance it for him, it would be of no avail; for there is no one competent to receive the price of his redemption, and set him free.

In cases of this latter description, a remedy, as I understand, has sometimes been given by a private act of the colonial legislature; the value of the slave being directed to be invested in some real or public security, and so settled as to indemnify the reversioner or remainder-man for his loss by the manumission. I have heard of such acts, however, in Jamaica alone; and presume they can only have been obtained when the slave, or his friend, was able to sustain considerable expense, as well as to make great interest to countervail the general feelings on such subjects. Most probably they have been cases of mulattoes chiefly, or mestizos, in which the parental patronage of some eminent colonist has supplied the influence, as well as the money, that was wanted.

Surely a general law ought to supersede the necessity of such private acts; and would have long since done so, if the Assemblies had not been hostile to enfranchisement. Whenever the full value of the slave is offered, and the tenant for life, or other temporary owner, is willing to manumit, he should be enabled to do so, upon investing the money, as the substitute of the slave redeemed by it, for all the purposes of the settlement. The mortgagor should have a like power, on paying the value to the mortgagee in reduction of the debt. The unfortunate subjects of a settlement or mortgage, however, could be but partially relieved by such means from these obstacles to their freedom. The favour of the immediate master would be a very rare and improbable source of enfranchisement, when he had not only to relinquish his own interest in the servitude, but to redeem by his purse that

of the reversioner, remainder-man, or mortgagee, and to bring forward immediately the full value of the manumitted slave; not to mention the colonial taxes recently imposed on such acts of gratitude or bounty.

We have here, therefore, a remediless hardship arising from leases and entails of the property in slaves, which at the same time subject them, not less than mortgages, to suffer from the indigence of the master. It is perhaps, on the whole, not too much to say, that they ought to be prohibited for the sake of humanity, even if they were not ruinous, as strict settlements almost invariably are in that country, to the families which are bound by them.

It is almost needless to enquire, under this title, as I have usually done in respect of other branches of my subject, what agreement or differences may be found between these colonial slave laws, and those of other countries; because I know not in what country, cursed with slavery, other than British colonies, dispositions of property occasioning these aggravations of the state have in any material degree, if at all, prevailed. Entails were unknown to the Roman laws, and I believe to those of every other nation of antiquity; nor could they materially prejudice the state of the English villein; though villeinage existed a long time, and was perhaps occasionally the subject of entails, after the statute *de donis*, which gave effect to them, was made. During a great portion of that time the villein, if comprised in an entail, had some compensation for the restraints that it might impose on the master's enfranchising power; for until those subsequent contrivances by which the statute was eluded, it made indissoluble the endearing hereditary relation between him and his master's house; and the means of barring an entail by fine and recovery were not devised, or not in common use, till villeinage had] very nearly ceased. But it would be erroneous to suppose that the English lord's power of enfranchisement was at any time practically arrested, either by mortgages or settlements; because the law of England was far from requiring to that end, like the colonial law, a deed executed by the party or parties possessed of the entire and absolute estate and interest in such property. On the contrary, there were a hundred acts or omissions of the immediate master which,

by construction of law, entitled the villein and his posterity to freedom against all the world.

Of leases, it may also be said, that if villeins were ever included in them, the practice produced no such hardship, and can have prevailed but for a short period of our legal history; for they had got into little use till after the extinction of the state. Indeed, the letting a manor with its attached or regardant villeins to farm, must, if it ever took place, have been a very rare transaction; our wide-spread and copyhold tenures having grown out of the different and incompatible practice of parcelling out the manors among the villeins themselves, to hold during the lord's pleasure, who thus became the actual tenants, instead of subjects of the letting.

That the same remarks apply to the slaves of the ancient Germanic nations, if slaves they should be called, appears sufficiently from a passage in Tacitus, which I have already cited \*; and I apprehend that leases of a domain with the slaves belonging to it, were not customary, if they had any existence at all, among the Romans. †

The Spartan Helots were themselves the farmers, as well as immediate cultivators of the soil; and the same is generally the case with the Ryots or husbandmen in the East Indies. These, however, in Bengal, at least, are of free condition; and where praedial slavery at all exists within the Company's territories, the servile labourers are not the sub-

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\* See p. 66. and note.

† It appears from many classical authorities, and particularly from Columella's copious accounts of the rural economy of that people, that the superintendance of a steward or bailiff "*Villicus*" was the ordinary substitute for the immediate management of the proprietor himself. "*Villici* "successerunt in locum dominorum, qui quondam, prisca consuetudine, "non solum coluerant, sed habitaverant rura, &c." *De re Rust.* Lib. xii. Praef. There were *Coloni*, however, or husbandmen, who were free labourers, and to these, lands were sometimes let during the owner's pleasure, but not, as I conceive, on lease, for stipulated returns in money or produce. When labourers were employed under them, they were, I apprehend, usually like themselves, coloni or men of free condition. My researches, however, have not been ample enough to enable me to state this with confidence. If lands cultivated by slaves attached to the soil "*adscripti glebae*," were ever let out to farm, the slaves, no doubt, must have been included in the letting.

jects of leases, but are the absolute property of the land-holders, for whose benefit they work, and who hold their lands in perpetuity.

In short, I believe that slaves have rarely if ever been, in any other country, ancient or modern, as in the British colonies, the subject of a temporary property in the hands of those by whom their labour is exacted; except that I doubt whether the Roman slave may not sometimes have had the same misfortune.\*

Mortgages of slaves, I admit, were allowed by the law of Rome; and were not unusual, as appears from the frequent notice of them in the *Digest* †; and perhaps in some other countries in which *praedial slavery* has prevailed, mortgages of the land may occasionally have been made; and if so, they probably comprised the servile labourers. There are, however, in this case, and in those also of temporary estates and interests, two important considerations, which make such dispositions of this species of property far less justifiable, and their bad effects to the slaves infinitely greater, in the British West Indies, than they can possibly have been in any other place. I mean the instability of the connection there between the slave and the soil he cultivates, and the commercial character of a sugar estate. Where the slave is attached by law to the soil, and cannot be sold, except in conjunction with it, both must have the same owners; and consequently it would be highly inconvenient, if not impracticable, to allow of temporary estates in, or mortgages of, the one, without extending the same disposing power to the other. The parties also between whom the ownership and interest, present or future, are divided, may be more safely trusted to guard well, by their stipulations and watchfulness, against a species of waste, the effects of which must be ruinous and irreparable. I mean, where all the agricultural labourers in a country are attached

\* I except also of course such of the United States of North America, as have not, since they ceased to be British colonies, abolished slavery, or disused our own institutions and customs as to the tenures and settlements of real estates; though entails and leases of plantations and slaves are probably, from the circumstances of the country, very little, if at all, in use there.

† *Lib. 20. de Pignoribus, &c.*

to particular estates, and there is no slave trade to recruit them.\*

But the other consideration to which I have adverted is a distinction of still greater moment. In what other country was the land and slave-holder a manufacturer also, and engaged in a business so precarious and perilous as to make his failure a much more ordinary event than his success? Where, but in the British West Indies, have mortgages and other incumbrances been so general that very few estates are to be found wholly exempt from them; and so onerous that a majority of all the plantations are sunk by them in twenty or thirty years? Where else, let me add, did the subsistence of agricultural slaves depend on provisions to be bought or imported from abroad; consequently on the wealth, or the credit of their immediate master? And where else was he ever placed under a strong temptation or necessity to withhold from them a sufficiency of food?

It is under such circumstances, that the common situation of a West Indian slave, deeply mortgaged or demised, and in the possession of a sinking mortgagor or lessee, or of one whose master holds him by a temporary tenure, becomes truly distressing, and often most calamitous and fatal.

Let me not be thought to have insisted too long on this branch of my subject. The existence of the black population depends on the correction of the evils it develops. Odious and destructive as the system is in other respects, the negroes

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\* How regardless West India proprietors, when lessors, are of such precautions, I have already noticed; and the same remarks apply to their settlements and mortgages. In the limitation of an estate for life, or a possessory trust term, in lands and slaves, it is not less common, than in limitations here of freehold lands, to add, *without impeachment of waste*; and in none of the many conveyances that I have seen of sugar plantations, by way of mortgage for securing debts, annuities, and other charges, though many of them have specially provided for the possessory uses in other respects, was there a single covenant to guard against what Sir William Young called the *over-working* or *scanting* the slaves. I am not aware that since the abolition, proprietors have been less neglectful. I believe the contrary; because no part of their general conduct, or that of the Assemblies, has indicated any sincere accommodation of the system to that important change, which they plainly do not regard as one that is to be effectual and permanent.

are hardy and prolific enough to have maintained and increased their numbers, but for the multitudes that periodically perish from these causes, in the wreck of a master's fortune. Such wrecks are now become more common than ever. Let the same consequences be permitted then, and all the reformations that can be made in other respects will not arrest the triumph of disease and death over the re-productive powers of nature. The remnant of the millions torn by our injustice from Africa, will perish in their chains.

**RULE XI. — WHILE THE MASTER'S POWER OF ALIENATION IS  
THUS DESPOTIC AND UNLIMITED, THE SLAVE HAS NO LEGAL  
RIGHT OF REDEEMING HIS LIBERTY ON ANY TERMS WHAT-  
EVER; OR OF OBTAINING A CHANGE OF MASTERS, WHEN  
CRUEL TREATMENT MAKES IT NECESSARY FOR HIS RELIEF  
OR PRESERVATION.**

This is undeniably the state of the law, as to redemption at least, in every British colony, unless the humane provisions of the Spanish law are still observed, as I hope they are in Trinidad. In no other of our West India islands, nor, to my knowledge, in our lately acquired settlements in Guiana, where the Dutch laws have been retained, has the poor slave any power of redeeming himself or his child from this cruel bondage, without the master's consent, though he were able, or any friend on his behalf, were both able and willing, to pay his value ten times told.

As to obtaining freedom, or a change of masters, by legal authority, there are indeed some special and extreme cases under the late meliorating acts of some of the islands, which may be alleged as exceptions to this rule; but they are of very little if any practical value. When a ferocious master, not content with ordinary modes or degrees of oppression, proceeds to such shocking barbarities as mutilating or dismembering the living body of his slave, and has been regularly convicted of the crime, then, and then only, provided it be "*a very atrocious case*" of this description, the courts, "*in case they shall think it necessary for the future protection of such slave, to declare him or her free,*" are empowered to do so.\* Such

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\* The first meliorating act, called the Consolidated Slave Act, of Jamaica,

were the express limitations of this power when originally given by the earlier meliorating acts, of Jamaica, the humanity of which was loudly vaunted, and represented as

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and the Act of the Bahamas, with the exception of the words confining it to atrocious cases, have these express restrictions. The former was passed in 1788. On the 2d of March, 1792, another act was substituted by the Assembly of Jamaica, which Mr. Bryan Edwards printed in his History of the West Indies (Appendix to Book IV.), and boasted of "*as demonstrating to general conviction, that the Legislature of that island, availing themselves as well of the reproaches of their enemies, as the suggestion of their friends, had secured to their labourers as much freedom, and as great a latitude of enjoyment, of comforts, &c. as could be done consistently with their own preservation.*" The Assembly afterwards, in a report of 1799 (Papers of 1804, House of Commons, title Jamaica, G. 15.), takes the same credit to itself; and says, "*The Legislature of Jamaica has done every thing possible to be done, to render the condition of the slaves as favourable as is consistent with their reasonable services, and the safety of the white inhabitants; and to prove this they refer to their statutes on that subject.*"

Yet the act of 1792, the ultimate and perfect work of humanity thus referred to, had followed in its 10th section the very abstemious enactments against dismemberment and mutilation, of the act of 1788, in the same words, and had in no other case but that of "*very atrocious*" *mutilations*, given a discretionary power to any court to deliver a slave cruelly treated from the convicted master, either by enfranchisement or sale. Various other cruel and destructive practices were prohibited by special descriptions, under small penalties; but on every other conviction than that for "*very atrocious cases of mutilation*," the slave *must*, and even in those cases might, go back to the brutal master.

In December, 1809, a new act was again substituted, the 17th section of which had also the same enactments, and in the same words. (Papers printed by order of the House of Commons, of 5th April, 1816, page 120, and by order of 26th February, 1817, page 61.)

I know not, by the way, how often the Council and Assembly of Jamaica have re-enacted this slave code, called their Consolidation Act; nor upon what new principles of legislative order they proceed; for though no clause of limitation is to be found in some of the preceding acts, as printed for the use of parliament, the whole is always re-enacted in an original form, as if there were no preceding law then existing on the subject; and on every successive parliamentary call for information as to new improvements in their slave laws, this voluminous often-seen Consolidation Act is transmitted at full length, without any intimation whether it contains any amendments or new enactments; which is consequently only to be ascertained by a laborious comparison of every new edition with the former ones. This, no doubt, is thought a more convenient course of proceeding than to return expressly from time to time, that nothing more has been done towards

having accomplished all that was consistent with the safety of the colonies, for the full protection of the slaves. The meliorating act of the Bahamas had, and still has the same re-

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the improvement of their slave laws, in compliance with the reiterated solicitations of the crown and parliament, or distinctly to shew how trivial the improvements have been, by returning the new enactments alone. But it is to be regretted that in digesting and printing these returns for the use of parliament, the same course is pursued; not only because it is a waste of public money to print the same identical acts over again many times, but because it is burying important truth under mountains of lumber; and few members, I fear, take the necessary pains to discover by comparison of these successive impressions, that all or most of their specious enactments are the same which we were amused with twenty or thirty years ago, and which have been since found, and in many instances acknowledged, to be useless.

On my own account, I find some additional cause of regret, because this practice not only much increases my present labours, but makes it more difficult to avoid mistakes and oversights, when stating generally the defects of these meliorating acts.

In the present case, I was on the point of sending again to press unaltered a statement, that *dismemberment and mutilation*, "when very 'atrocious,'" were, under the Jamaica law, *expressly*, the only cases in which there was power to enfranchise or deliver the injured slaves; for having found that provision unaltered in the successive Consolidation Acts from 1788 to 1809 inclusive, and seeing the same clause, as it appeared on a cursory view to be, in the last edition of this act that is to be found in the printed Parliamentary Papers (viz. one that was passed December 19th, 1816, and was printed by order of the House of Commons of June 6th, 1817), it was natural, without a very careful comparison of this with the former acts, to conclude that there was still no alteration. But on a second and more careful perusal of it, to which I have just now been accidentally led, I find that this act of 1816 has at last varied the enactment in a very curious way.

In the former acts "mutilating or dismembering" slaves was the only description of offence in the section which gave this power of enfranchisement to the court (viz. sec. 17.); and consequently the power could by no possible construction extend to any other case. The penalties on the offender were a fine not exceeding 100*l.* currency; and imprisonment not exceeding twelve months. In a subsequent section (the 19th), "wantonly or cruelly 'to whip, maltreat, beat, bruise, or wound a slave, or to imprison him without 'sufficient support,'" was made an indictable offence, and punishable by fine or imprisonment, or both, at the discretion of the court; and this clause had no connection with the former as to mutilation, for which a distinct and special course of proceeding was prescribed, not applicable in its nature to these offences. But in the act of 1816, as I now find, the two sections are incorporated together, and the descriptions of offences in the latter are

strictions, except that the words, “a very atrocious case,” are omitted; nor, as to Jamaica, do I conceive that the practical effect of its latest act on the subject is to enlarge this power. This may perhaps be disputed; but I have no doubt that in the courts of the island the construction of the last act in this respect would be the same as that of

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added to those in the former, so that they now run, “If any person, &c. shall mutilate or dismember, or wantonly or cruelly whip, maltreat, beat, bruise, wound, or imprison, or keep in confinement without sufficient support,” &c.; and the penalty on conviction is a fine not exceeding 100*l.*, or imprisonment not exceeding twelve months, or both: and then follows the power of enfranchisement “*in atrocious cases*,” if the court shall think it necessary for the protection of the slave.

By this arrangement an evident embarrassment arose to the framers of the clause; for it was found that the provisions of the two sections would not wholly amalgamate, and they were obliged, therefore, awkwardly to distinguish in this consolidation clause between the different cases as to the proceedings upon them. Yet, from the want of such discrimination in the penalties, the punishment of mutilation is actually reduced; for under the former acts imprisonment was absolutely directed to be added to the fine, but now it is discretionary in the court to fine only, in cases comprising that enormous offence. On the other hand, it will no doubt be alleged, that the power of enfranchisement is extended to the smaller offences of cruelly beating or whipping, &c. If so, why did they take so much pains to avoid the plain and simple course of adding that power to the section of the former acts which prohibited those minor offences? Why embarrass themselves needlessly with the wording a long, complex, and yet disjointed section, at the expence of grouping most inconveniently together such very different offences, as simply beating a negro, and cutting off his ears or legs? And why embarrass the courts in the exercise of so high a power as confiscating the owner’s property in his slave, by enfranchisement, with a dubious construction? Such, at best, it seems to be; for beating, whipping, &c. cannot be well deemed “*atrocious cases*,” in comparison with those of mutilation or dismemberment, included in the same enumeration; and masters are certainly in no danger of any such construction in the colonial courts.

The author regrets that no clearer or fuller improvement of the law can be found in this last edition of colonial humanity, which he might reasonably ascribe to the former unpublished, but not *unknown*, edition of the present work. It is a new instance of the Assembly’s “*availing themselves of the reproaches of* (those whom they are pleased to call) *their enemies*.” But, unfortunately, the use they make of such lessons is less to remove faults than to hide them.

Perhaps some further and amusing traits of such conduct may be found in the sequel of this work, in the promised chapter on the meliorating laws.

the former ones on the same subject must of necessity have been.\*

Besides the narrowness of the remedy, in respect of the kinds of cruel oppression to which it relates, the power is confined expressly in both these colonies; and by plain implication, I think, wherever else it has been given, to cases in which the owner of the slave is himself the convicted offender. As few owners comparatively are resident in the colonies, the cruel treatment must more commonly be received from the manager or overseer; and sometimes from a lessee, or a mortgagee in possession; in neither of which cases would the remedy at all apply; the poor slave, therefore, must return to his irritated oppressor, to expiate by a thousand inflictions, of which the laws do not even affect to take cognizance, the offence of having complained to a magistrate, or having been the cause of the master's conviction.

The meliorating act of Grenada, passed in November, 1797, and which, I believe, has not in this respect been altered, expressly limits the power of enfranchisement in the same way, and nearly in the same words, with those former Jamaica acts, which I have cited, entrusting the power to the court's discretion only in cases of mutilation and dismemberment "*when such cases are atrocious.*" In other excesses of corporal punishment, however, when committed contrary to the limitations of the act itself, there is in Grenada a power given to the court to adjudge the injured slave to be sold by the slave guardians by the same act appointed, to some person of humane repute, accounting to the owner for the price. This, however, is limited to "*atrocious cases, when such offence shall appear to have been accompanied with any aggravating circumstance of singular inhumanity or mayhem.*"†

The legislature of Dominica made no provision for enfranchisement or sale in any case under its first and second meliorating acts; not even in cases of "*mutilating or dismembering, or cruelly tormenting*" slaves by their owners, descriptions of offences contained in those acts, and for which they imposed

\* See the last note.

† Papers of 1804, House of Commons. Title Grenada, F. 11 and 9.

only a fine not exceeding 100*l.* currency, or imprisonment not exceeding six months; but in 1818 this legislature at length followed the latest example of Jamaica (see the last note,) and nearly in the same words, as far as related to the description of the offences, and raised the pecuniary penalty to 200*l.*; but the delivering power (which is given only in "*atrocious cases*" and in them only in case it shall be thought necessary for the future protection of the slave,) is not to enfranchise, but to "sell him or her by auction, to the best bidder, "paying the price " to the owner." \*

The meliorating act of the Leeward Islands of 1798, the only act of this class yet existing, I believe in most of those islands, contains no power of enfranchisement in any case; but has a like power of selling the slave by auction, if thought necessary by the court after conviction, for "cruelly whipping, "beating, or imprisoning without sufficient support †; and there is no restriction to the "most atrocious cases," which, makes this act, in that respect, the least objectionable of any that I have cited or found.

Yet it seems to be granting relief upon pretty bad terms both here and at Dominica, to sell the injured slave, not to a master of his own choosing, at a valuation as in the Spanish colonies, or to a humane master chosen for him by guardians, according to the Grenada act; but to any stranger who bids highest for him at public auction, and who will very probably remove him far from his former home and family for life. Indeed, the offending master himself can be at no loss to frustrate the whole remedy if he pleases, and to regain his power over the sufferer, for vindictive or other purposes; for though the act says he shall be sold by auction to any other person "except the owner," there is no disqualification of that offending party, afterwards to buy and hold him. He has only therefore to set up an ostensible purchaser, who will sell afterwards, *pro forma*, to himself; and there will be no loss to him however high the bidding, since the whole price is to be his own.

By an act of Nevis of 1818, this act of the General Assem-

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\* Papers printed by order of 7th June, 1819, House of Commons. Title *Dominica, 16, 17.*

† Papers of 1804, House of Commons, 19. H.

bly is amended in respect of that island, and a power of enfranchisement of the slave is given, but only in "atrocious cases," and after an enumeration in which dismemberment and mutilation are inserted; which brings it to the same construction with the last Jamaica act. \*

These are the only colonial acts of which I am aware, that have made any provisions for releasing a slave in any case, either by enfranchisement or sale, from the power of a cruel master, though his oppressor may have been convicted of the grossest barbarities in due course of law. If Barbadoes, Saint Vincent, Tobago, or Bermuda, the other colonies having legislative assemblies, have adopted any such enactments, they are not to be found among the laws for the protection of slaves transmitted from those colonies, and printed by authority of parliament.

The provisions to this effect which I have cited, are manifestly insufficient, not merely from the general defects which attend all laws for the protection of slaves, while their evidence is rejected, and no expedient is found for supplying their want of civil character, but because, also, not one of these acts, not even that of the Leeward Islands, embraces a third part of the ordinary cases, or modes of oppression, which should entitle the slave, if not to freedom, at least to a change of masters. To insist upon this in respect of acts which apply only to the shocking case of amputating a slave's limbs or members, "*when atrocious*" would be trifling with the reader's patience. But even in the two or three colonies where the provision extends, or may be understood to extend to other modes of cruelty in punishment, how much of misery may be inflicted, to the progressive destruction of health and life, without any power in law to deliver the victim from the merciless and fatal yoke. The two most cruel and destructive, and at the same time most ordinary modes of oppression in this sordid commercial slavery, are excess of forced labour, and insufficiency of food; and against these accordingly we find specious, though impotent enactments, in every meliorating law. But to whatever excesses such abuses may be carried, the

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\* Papers printed by order of 7th June, 1819, House of Commons, 29.

remedy of delivering the oppressed out of the hand of the oppressor, has no where been intrusted either to the guardians, the magistrates, or the courts. The same may be said even of many forcible injuries to the slave's person, which these very acts have specifically prohibited under pecuniary penalties. The injured slave may make the matter known if he dares ; but if the master is in consequence prosecuted and convicted, the unfortunate protégé of the laws must remain under his power, and take the fearful consequences of his resentment.

It is, I submit, a perfect axiom in equitable and humane consideration, that whenever the law interferes between master and slave, so as to convict and punish the former, in consequence of a complaint by the latter, the relation should be dissolved ; and when the offence is not so great as to deserve privation of the slave's value, by enfranchisement, it is enough that the wrong-doer receives the full price of his transfer to another master.

The Assemblies are, we see, of a very different opinion ; and it is curious, though painful, to contemplate the contrast between the extreme care they take of the accused master, and their utter disregard of obvious danger to the accusing slave. An example of this may be found in that last and most mature work of colonial justice and humanity, the Jamaica act of 1816, to which I have before referred ; by the 28th section of which it is provided, that two justices of peace may hear complaints of the slaves in cases of improper and prohibited punishments ; " and if it shall be found on enquiry that the complaint is true, it shall be the duty of the said magistrates, and they are hereby required to proceed against the offender according to law ; but if it shall appear that such complaint was groundless, the said magistrates shall punish the complainant, and the person giving information thereof, in such MANNER AS TO THEM MAY SEEM PROPER."

What is meant by the punishing of a slave by magistrates, the same act will abundantly testify. The ordinary mode is a public cart-whipping ; but the number of lashes here, contrary to the usual style of these meliorating acts, is unrestrained. The dilemma of the injured and complaining slave, therefore, is

precisely this: if he fails in proving his charge, (which, as his own evidence and that of all other slaves is excluded, is most likely to happen,) he is to be cart-whipped by the justices; but if he proves it to their satisfaction, he is to be cart-whipped by his master: for who can doubt that the same love of vengeance that ventured to transgress the law, will freely indulge itself when safe within its limits? The justices, indeed, can punish, however severely, only once; but the master, irritated by the effects of the prosecution, may inflict thirty-nine lashes as often as he chooses, and otherwise torment to the end of life. On the whole, therefore, a false charge is safer than a true one.

Another of these latest improvements in mercy, the Nevis act of 1818, above cited, takes care to exclude all risks of information being given to magistrates, by persons who, though not liable to be cart-whipped, are liable to actions at law, and to the dangers of *the point of honour*; for one of its clauses, after reciting that complaints and informations may originate in malice, enacts, that if upon investigation a charge against the master or director of slaves shall appear groundless, "or to be of that nature," the magistrate shall give up the names of the complainants or informers, under a penalty of 50*l.*; that the injured party, it is added, may be enabled to seek redress by law.

To understand aright the effect of this provision, it is necessary to remark, that there is a clause in the act of the Leeward Islands, to which this Nevis act refers, authorising any justice of peace to proceed in cases of mutilation or other cruelties "*upon any complaint or intelligence which he in his own discretion shall think probable*;" so far as, with the concurrence of another justice, to demand the production of the slave, in order to judge by inspection whether further proceedings are necessary.\* If therefore a gentleman should happen to hear of any such cruelty on a particular estate, though only from a slave, he might, if he believed it, put the matter safely in a train of fair investigation, by submitting the ground of his suspicion, without any oath or public information, to a magistrate on whose honour and judgment he could repose. Nor

could the suspected master, if innocent, sustain any inconvenience; for the production of the slave, if un mutilated, and unmarked with the effects of any cruel treatment, would at once refute the charge, and put an end to the proceeding.

To deter humane individuals from the use of this salutary expedient, highly necessary though it is in such a state of society, seems to be the sole effect of the clause I have cited; for I am aware of no other case in which a magistrate could proceed against an accused master for cruelty to his slave in a way that would not indicate publicly, in the first instance, the name of the complainant or informer.

The authors of such provisions must wish us to suppose that false complaints by slaves against their masters, and groundless accusations by men interposing as informers between master and slave, are frequent or probable mischiefs in those islands. Were the case so, it would be idle to annex to such daring wrongs any penalties short of death; for the hardy offenders must brave, in the natural private consequences of the act itself, punishments which, certain death excepted, are hardly less deterring.

Whatever other truths, in respect of slavery, its apologists may please to deny, they will perhaps not dispute that the vengeance of a master may make a slave completely miserable for the rest of his days. If not, then drudgery, and pain, and hunger, and the stocks, and the dungeon, and privations of every comfort, — home, wife, and children not excepted, — are nothing to the stoical apathy of Negroes. Yet it is necessary, it seems, for the law, with its penal lashes, to come in aid of the man who is armed with all these terrors, in order to save him from a false public accusation by his slave; a slave whom the utmost success of the accusation could not deliver from his power! \*

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\* While I am sending this sheet to press, a document appears in the newspapers of the day, (October 6. 1823,) which I read with equal regret and surprise. It purports to be an official notification by Sir Ralph Woodford, governor of Trinidad, of his having punished two Negro slaves, one with seventy-five, and the other with a hundred lashes, for a complaint against their master, which, he says, had upon investigation proved to be groundless; and he orders these tremendous punishments to be inflicted in the presence of deputations of ten slaves from each of the neighbouring estates, for the express purpose of deterring them from like offences.

The dangers to be encountered by a free informant may not be so obvious to those who have not resided in the West India islands. It may be necessary, therefore, to observe, that by the notions and manners of those colonies, every white man is a gentleman, and has a right to honorary reparation for every wrong by any of his white compeers; and that there is not in their estimation a wrong or affront more intolerable than interference between a man and his own slaves. The man, therefore, who steps forward for that purpose as a public accuser, must do so with his life in his hand; and this, not merely in respect of his honorary responsibility; for so impotent are the laws in that country when opposed to popular feelings among the privileged class, that it would be almost as unsafe to a

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Surgeons are ordered to attend, to moderate the punishment, if necessary. The extreme severity of it, therefore, could not be doubted, even by those who do not know the tremendous powers of that West India *Knout*, the cart whip, or that thirty-nine lashes is the ordinary limitation of a magistrate's power, by the more recent slave laws. These documents have so apparently authoritative a character, that it would be strange to suspect forgery; especially as our newspapers profess to extract them from papers published in the Island. At all events, my noticing them here can give them no greater publicity after their appearance on the tables of every coffee-house in London; and I feel myself bound, therefore, not to leave them unnoticed or uncensured.

If the governor is justifiable in thus awfully and systematically adding to the terrors which oppose an appeal from the master to the magistrate, then my views on this subject must be wrong; but though the Spanish law, which, I *hope*, is not neglected in Trinidad, in what respects the deliverance of slaves from a cruel master, may render just complaints much safer, and trivial or groundless ones more probable there, than in our other colonies, the danger must even there be infinitely greater, that cruel and fatal oppressions should be unpunished and unrestrained, from the want of a complainant or a witness, than that masters should suffer by the groundless accusations of their slaves.

Sir Ralph should have recollected that it was impossible so to discourage complaints that are false, without intimidating the poor slaves from bringing forward such as are true; for they are not likely to repose with implicit confidence on the unerring judgment and perfect impartiality of white men sitting in judgment upon white men, on the complaint of a poor Black. It is probable that a great majority of the Negroes who witnessed these tremendous and solemn floggings, believed the sufferers to be innocent, and their story true; and to them at least, if not to all, the practical lesson obviously was, *Beware how you complain!*

man's person, as his character, after having given such a provocation, to refuse a challenge.

Though cowards are cruel, I am sorry to say that every cruel man is not a coward. On the contrary, one of the most inhuman masters that ever, to my knowledge, disgraced the British Leeward Islands by their barbarity to their slaves, was a man of desperate audacity, and eminent skill as a duellist. It was, indeed, most probably from this character that he escaped prosecution; for he had by general repute barbarously murdered many of his miserable slaves, in addition to numberless other cruelties which the laws, as they then stood, did not extend to punish; and it is very probable that some persons, competent to give evidence, knew enough of some of those murders to have sustained an indictment by their evidence, had not the very perilous consequences of its failure deterred them from the experiment.\*

In this very island of Nevis, another well known case on the records of parliament, had furnished ample proof how

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\* I allude to the case of a proprietor of Tortola, executed in 1811, for slave murder, printed in the parliamentary papers of June 26th, 1811. He might perhaps have continued his horrible career till the whole of his slaves had miserably perished, as many of them actually did, by his cruelties, had he reserved the terrors of his pistols, the accurate use of which he excelled in, for the prosecutors of his crimes alone. But it pleased Providence to engage him in a different quarrel with a gentleman who knew the means of proving some of his murders, and who, though by no means deficient in courage, thought it better not to fight him, without first attempting to deliver himself from such a desperate enemy, by bringing him to public justice.

Happily, the government was then in the hands of a man uncorrupted by colonial prejudices, the late Mr. Elliott; and he was advised by an attorney-general, the late Mr. Burke, whose humane and enlightened mind had triumphed over those prejudices, though early imbibed. By their and the solicitor-general's exemplary discharge of their official duties, the popular feelings were sufficiently controlled to let public justice have its unbiased course; and the ruffian was at last cut off. But for many years prior to this prosecution, the horrible cruelties perpetrated by this man on his plantation, and their murderous effects, were quite notorious in the small community he lived in, and in the adjacent islands; and some of them, at least, might probably have been proved against him, if those who knew the facts had not been deterred from prosecuting or informing, by the great danger, as well as difficulty of the work.

necessary it was to encourage, rather than to deter, prosecutions against cruel masters; and to diminish, rather than increase, their security. True it is, that a prosecutor, and a zealous one, was found in that case, the late J. W. Tobin, Esq., of whom I cannot speak without a tribute of just applause to his memory; but he was *blind*, and therefore in no danger of a challenge. Other gentlemen had the humanity and the courage to second his fruitless efforts; but the consequences have been deadly feuds in that small society, with fatal effects of honorary vengeance.

The crime was not denied. It was perpetrated in the market-place of the chief town, and in the face of day. *Here* even West Indian agents, and champions of the colonies, speak of it in parliament with horror. Yet the defendant was acquitted. I need not further state the circumstances, as they are already before parliament and the public; but the following is the comment of Governor Elliott in his official despatch to the Earl of Liverpool: He states the acquittal as confirming “the melancholy statement he had previously made of the “unworthy and inadequate materials which constitute those “tribunals so improperly styled courts of justice in several “of the West India Islands;” and the following is an extract from his Lordship’s reply: “It might have been hoped that “the fear of disgrace attendant on an outrage on humanity “so publicly exhibited, would have been sufficient in any civil- “ized country for its prevention; but it never could have “been supposed that so flagrant a violation of the clause of “the act, called the Melioration Act, could be submitted to “the cognizance of a court of justice, and be exempted from “the punishment which the judge is empowered to inflict on “conviction of the offender.”\*

What shall we say of legislators who, under such circumstances, set themselves, not to diminish, but increase the dangers and difficulties attending prosecutions and complaints; and, instead of protecting the slave in the only possible way against the master when convicted, assist his vengeance when unsuccessfully accused?

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\* Extracts from Papers presented to the House of Commons in April, 1811. The case and evidence are printed at large in an Appendix to the fifth Report of the African Institution.

In these points, the laws of the British colonies differ from those of the French and Spanish West Indies; and the difference is, as usual, greatly to the disadvantage of that Negro, whose master enjoys the largest share of civil and political liberty. In the French islands, a Negro who had been cruelly treated, contrary to the 42d article of the *Code Noir*, and other royal ordinances, was forfeited to the crown; and acquired, if not freedom, at least deliverance from a tyrannical master.\* But the Court which adjudged the offence might also decree the sufferer to be manumitted.†

In the Spanish and Portuguese colonies, the law is still more merciful. The slave, upon a reasonable complaint of ill usage, may not only obtain protection, but be enfranchised, or transferred to a more merciful master. He may also, when rich enough, compel the owner to accept the fair value of his future services in money, and to release him from slavery; for which purpose his property is secured to him by law against the master's invasion; and the magistrate is empowered to settle the price of the enfranchisement, by appraisement, when the parties cannot agree upon the value.‡ But the indulgence of their laws goes still further; a slave who wishes to change his master, and can prevail on any

\* Owners of slaves, when convicted of such offences in the courts of those colonies, were sometimes even obliged to sell all the slaves they owned, and incapacitated from afterwards holding such property; — a most salutary and righteous provision, to which there is nothing similar in any of the British colonies. — (See several cases of that kind reported in *Les Annales du Conseil Souverain de la Martinique, Tome I.* p. 282. to 284.)

† *Ibid.* p. 283—4.

‡ “ The two following regulations have been established by the Court of Spain, in order to alleviate the situation of this unfortunate class of mankind. First, Any slave, on proof given to the governor of bad treatment by the owner, may insist on being transferred to another master, at such price as may be settled between the purchaser and seller; and if the latter is exorbitant in his demand, the governor is to name a third person as umpire. Second, Any slave, who by his industry and economy has raised a sufficiency to purchase his manumission, may demand his freedom from his master, on paying an equitable price; and if the master should prove unreasonable, the governor, on the application of the slave, is to appoint two appraisers, who are to fix the price.” — (Privy Council Report, Part IV. title Spain.)

other person to buy him by appraisement, can demand and compel such a transfer. \*

Under our ancient law of villeinage, the villein had no general right to redeem himself; and indeed, as all his property virtually belonged to the lord, he could pay no valuable consideration on his own behalf for his freedom; which some writers assign as the reason of the rule. † But any injury for which he could prosecute his lord at law, entitled him to enfranchisement. With a wise and merciful correctness of principle, it was held, that the master, whenever by his misconduct he gave a right of action or suit against himself, gave also a right to freedom. ‡

Thus when the son of a villein prosecuted an appeal for the death of his father, if he succeeded, he obtained his own enfranchisement. § So also, if the lord wrongfully prosecuted the villein for a capital crime, in a case wherein a free person, if so prosecuted without cause, was, by law entitled to damages, the villein was entitled to the same redress, and, as a necessary consequence, to his freedom. ||

The Anglo-Saxon laws were still more humane. By a law of Alfred, a christian slave was to be enfranchised at the end of six years ¶; and a law of Canute must appear to a West Indian planter very strange indeed. The master who obliged his slave to work on a holiday, was not only liable to a fine, but entitled the slave to his freedom. \*\*

Even the Russians, among whom, if any where in Europe, some remains of pure slavery may yet be found, have provided, by their laws, remedy and prevention, as well as punishment, to controul the cruelty of the master. By an ordinance of Peter the Great, in 1772, persons who torture their vassals are considered as fit to be treated in the same manner with maniacs; and it is directed that they shall be put under the tutelage of guardians. ††

\* *Des Colonies Modernes sous la Zone Torride, par Barre Saint Venant,* p. 92. See also *Mémoires de Malouet, Tome IV.* 20, 21., Introd.

† Glanville, lib. v. c. 5. ‡ Coke Litt. 139. b. § Coke Litt. 125. b.

|| Litt. Sec. 208. ¶ *Leges Alfredi apud Wilkins, L. 11.*

\*\* *Leges Canuti, ibid. L. 42.*

†† See instructions by the late Empress to commissioners for framing a

If we look back to pagan antiquity, the hopeless unprotected bondage of our colonies will there also in this respect find no countenance or example. In the Roman empire, from the time of Adrian and the Antonines, slaves were protected by the laws, and upon a well-founded complaint of cruelty, obtained their freedom or a different master. \*

At *Athens*, where the lenient treatment of slaves was proverbial, the door of freedom was widely open ; and those who were unlucky enough to meet a cruel master, might fly to the temple of Theseus, from whence they were not taken without an investigation of their complaints. If the ill-treatment was found to be real, they were either enfranchised, or transferred to merciful hands. †

We find, in short, a general and natural agreement, in the views of all lawgivers, ancient and modern, (except the Assemblies of the British Sugar Colonies), on this important point. — They saw the absurdity, and the cruelty, of attempting to protect a slave against abuses of the master's power, by law, without delivering him from the hands of his oppressor. — They knew that without such relief, the interposition of the magistrate would be worse than useless ; because it would naturally tend to exasperate the master, and thereby embitter the future lot of his unfortunate bondman. The putting an end, therefore, to the particular relation, by enfranchisement or sale, was the first, and in most instances, the only remedy, they applied.

But we find no such legislative humanity in the British West India islands. Here there is no temple to fly to, and no magistrate to invoke, for the removal of a chain which oppression has made intolerable. — The wretch even, who is convicted of having maimed and mutilated his slave, *may*, in all our islands, and in some of them *must* be, left to lord it over the same miserable victim to the end of his life. To

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new code of laws for the empire, Article 256. She complains of the neglect of this law in practice ; and proposes various new provisions for meliorating the lot of the slaves ; and also for their gradual enfranchisement. (Same Instructions, *sparsim*.)

\* *Instit. Justin. Lib. 1. tit. 8.* See *supra*, p. 44.

† *Travels of Anacharsis, Vol. II. cap. 6.*

be compensated by freedom for the miseries which have been sustained, or even to choose a master less unfeeling, is more than the justice and mercy of British colonial laws have accorded to the unhappy negro, whose oppressor they have armed against him, and whose hard duties they most rigidly enforce.

#### RULE XII. — THE STATE IS HEREDITARY AND PERPETUAL.

To deny that these are properties of colonial slavery, would be to disparage the master's title. I believe it has, therefore, never been, nor will be denied ; and consequently need not be proved.

The state descends only in the female line. The owner of the mother becomes owner also of the child ; and of the children's children, in the same line, to all generations ; subject only to this defeazance, that if in three successive descents they intermix only with European blood, so as not to be nearer than in the fourth degree to any negro ancestor, the servile condition wears out, and the future progeny are free. As such intermixtures are never by lawful marriage, which would be ineffably disgraceful to the European party, the attainder of African blood is purged only by impure cohabitation ; and the enfranchisement of the progeny is a premium on concubinage. A female slave marrying a negro or mulatto, attaches slavery on her offspring ; but let her breed by a white keeper, and they, if she be a mestize, will be free : if she be a mulatto or negro, her daughter or grand-daughter will have the same reward for prostitution.

From what legal authority these canons of slavery are derived, the colonial proprietors have never, I believe, attempted to explain. They talk loudly and indignantly of their "*vested rights*," and represent the proposed measure of declaring that the children to be hereafter born shall be free, as a violent invasion of their "*property* ;" but on the origin of these asserted rights, and of the title to this future property, as between themselves, and the unborn subjects of it, they are prudently silent. Not one of their learned advocates, not even their historian, Mr. Edwards, though he with great industry examined their earliest records, and with great zeal defended all their supposed rights, including that of a per-

petual slave trade, has quoted a single colonial law which enacts that slavery shall be hereditary and perpetual, or that the child of a female slave shall inherit her servile condition, and become the property of her master. The next time they tell us of vested legal rights, in opposition to every natural and moral right in generations yet unborn, let them supply this omission if they can. If not, I shall have credit, I trust, for the assertion, founded on my certain knowledge as to many of the islands, and my full belief as to all, that no positive law has any where expressly imposed slavery on the issue of negroes born under the king's allegiance, though their mothers, or even both their parents, should be slaves.

We are told also of acts of parliament that have sanctioned these odious rights; but let the statute be cited that has established or recognized the rules now under review, the sole foundation of property in creole slaves. That the importation and sale of slaves from Africa was long sanctioned by British laws, is a sad and opprobrious truth; but I know of no act of parliament that has excluded the children and posterity of those imported Africans from the birthright of British subjects, and ordained that they shall for ever be the property of the man by whom their mother or ancestress was bought.

What, then, is the legal basis of this title, which we are called on to regard as sacred and inviolable, at the expence of mercy and justice to the innocent and yet unborn?

Some of the colonists and their assemblies, the reader will remember, have referred us to the law of villeinage; as if an institution, obsolete among ourselves before the slave trade began, had attached upon the victims of that trade when first landed in our colonies, by force of English law. I have already shewn that this is not more preposterous in principle, than inconsistent with the harsh character of the slavery that was in fact established \*; and have noticed among other essential differences between colonial slavery and villeinage, that the issue of villeins followed not the condition of the mother, but the father; so that if the wife or female villein married a free man, the children were free born. To refer us to the law of

villeinage, therefore, in this instance, for the authority in question, would be to invalidate every existing title to slaves in our colonies, except to such as were brought from Africa before the abolition. Nor could the owners of the fathers, or other paternal ancestors, assert a better title to the creole issue than the owners of the female stock; because none of the creole slaves, or natives of the islands, have been born in lawful marriage; and yet out of it, the father is not recognized as such by the law.

In this, as in many other points, it would have been happy for the poor negroes in our colonies, if the law of villeinage had indeed been resorted to for determining the legal nature and incidents of the state in which they were placed. Masters, instead of discountenancing, or preventing marriage among them, would have used their irresistible influence or authority to oblige their male slaves to marry; and instead of that shocking disproportion between the sexes which they wilfully produced, when forming or recruiting their gangs by purchase in the slave market, would have taken care to provide a wife for every male slave that was of age to marry, as the necessary means of adding to, or maintaining their numbers by native increase. Instead, also, of sending out and employing as managers, overseers, and book-keepers, single men in the heat of youth, and giving them a range of intercourse among the female slaves, unrestrained by disfavour or reproach, and encouraged by general example, married men, or men of strict morals, or decent manners at least, would have been preferred for such situations; and an open libertine would not easily have found employment. In that case the procreation of mulatto children on the estate, would have been a great and uncompensated evil to its owner; as the labour of the black woman would have been lost or lessened by it, during some months, without the addition by birth of any slave to the gang; whereas, at present, there is no such disadvantage, a mulatto slave being, for many purposes, more valuable than a negro. The owner, too, is generally sure not only of the mulatto child being well taken care of, and sustained, in part at least, at the father's expence, but of his being able hereafter to obtain a large price for its enfranchisement. Such a hold on the parental feelings of a manager

or overseer, is also often a convenient pledge for his willing continuance in the office, and for his good conduct while he keeps it.

When these considerations are fairly weighed, it will not be thought too much to assert, that this departure from the rule of our old common law slavery, and the adoption of that of the civil law, *partus sequitur ventrem*, has been fatal to the morals of our islands, as well as to the interest of native population.

Much more might be said deserving very serious consideration, if we were now to decide on the legitimacy of this state, when imposed on men not brought as alien captives from Africa, but born under the king's allegiance, and expressly recognized as His Majesty's *subjects*.\* But my present object is to delineate the slave laws of the colonies, as practically administered there; and to enquire, not into their authority, but their character and effects.

The perpetuity and hereditary nature of this sad state of man may be considered by our colonists perhaps as universal qualities of slavery; and as involved in the very meaning of the term. They certainly did belong to the slavery of ancient Europe; though the Roman *vernæ*, or slaves born in the household, had so many advantages, and manumissions were so very frequent, that their state could rarely endure to a second generation. But in these important points, as in others, the state framed and upheld by Englishmen in the West Indies, far surpasses in rigour and injustice the institutions of the African slave coast, under which their titles are derived. The *vassalage* of Africa is indeed hereditary, and perhaps perpetual; but that which is properly called *slavery*, which alone makes a man liable to be sold, and sent from the country, and is therefore the state of all who are fairly bought by the traders according to African law, is not inherited by the issue, but ends at latest with the life of the immediate captive.† When these poor beings have the good

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\* See the royal proclamations issued in consequence of the insurrection at Barbadoes.

† See pages 70, 71. *supra*, and the Appendix No. II. therein referred to.

fortune to remain with an African, instead of passing to an European owner, and to be set to work for him, a short period of service changes them from slaves into vassals, or *grumettas*; and their issue, born in the African master's service are all of this latter condition; which is as mild as any state of feudal vassalage ever known in Europe.

I believe that in most countries in which slavery has been imposed as a punishment for crimes, the after-born issue of the offender has been free, though some ancient laws were severe and unjust enough to include the living issue and wife in the same penal sentence, as they did also in that of death. The plea, a very inadequate one certainly, that has sometimes been used in defence of such severities, viz. that the affections of a parent become thereby pledges to the state, for his avoiding atrocious crimes, would plainly be irrelevant to the case of unborn issue, not yet the object of his love, and whose coming into being to partake his punishment, the will of the convict might prevent.

In this respect the man or woman condemned to slavery for a crime is not distinguished by African law from the captive in war. The issue born in the master's service are, in either case, not slaves, but *grumettas*. This least unjustifiable cause of slavery, therefore, even supposing the barbarous tribunals to be upright in imposing it, affords no pretence of right to the English purchaser, to impose on the infants born in his family, or on his land, the life-chain of the parent. He buys a life-interest in bondage, under one law, and converts it into an inheritance by another; unless we ought rather to say, that he makes this injurious conversion without any law whatever. He can plead only that his brother planters and their predecessors have been used to inflict the same cruel wrong; and that the courts have mistaken it for right.

It has sometimes occurred to me, as some extenuation of the conduct of the early settlers of our oldest West Indian and American colonies, in forming that shocking system of which their more polished successors are so tenacious, that many of them had been convicts, indurated by sufferings and crimes; and that the rest were hardened by the exercise of the harsh discipline of which the former were the subjects. They naturally, therefore, felt little repugnance to the placing

the poor Africans, when brought among them, in a state of more abject degradation, and subjecting them to a harsher treatment than white men, with whom they had so many native sympathies, sustained. The negro's condition was made worse than ordinary slavery, because that of the white convicts was little better; for these were commonly placed as bond servants with the free settlers, and their work was exacted by coercive means; often, no doubt, with little moderation as to its degree, and as little liberality in those returns for it, which were given in provisions and clothes. The whip, also, administered by the master's hand, chastised their faults without the intervention of law.

But even this small extenuation will not apply to the rules now under review. On the contrary, the immunity of the convict's child, might have suggested to them the injustice and the cruelty of condemning the infant negro born in their service to the same hard lot with his parent.

To us, at least, it should be a subject of remorse that by committing so long the fate of our African victims, not only to masters, but to lawgivers, hardened by the administration of a system such as the coarse feelings of convicts and buccaneers originally framed, we have abetted in this point as in others, more than the ordinary excesses of that crime most odious in the sight of God, — oppression of the helpless and the poor; condemning the unoffending African, not only to an extreme and hopeless slavery for life, but to that attainer of his blood which entails the same curse on his innocent offspring, and gives the mother cause for grief, instead of joy, when a child is born into the world.

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It seems needless to delineate more minutely the legal nature of this dreadful state of man, in that view of it which I proposed in the first place to exhibit, — the relation between the slave and his master; or, to use the more emphatic language of the colonies, his *owner*.

Enough has been said to give a general, though faint conception, of the master's tremendous power. An authority has been shewn on the one side, and a dependency on the other, more extreme than the term *slavery* has hitherto been

understood to denote among mankind; and the rigour of which, in point of law, at least, is beyond example, if not beyond excuse.

Excessive toil, hunger, pain, imprisonment, exile, and every possible species of human sufferance, with the exceptions of violent death and mutilation, are inflictions within the legal range of the master's authority. He can oppress by deputy, as well as in person; he can transfer his authority when, how, and to whom he pleases. Without his leave, no property whatever can be acquired or held; without his will, no domestic comforts or social connections can be for a moment enjoyed. He is impotent only to secure to his faithful slave those slender advantages with which the loss of liberty has elsewhere been, in some small degree, compensated. The poor negro finds in slavery nothing secure, nothing permanent, but the weight of the chain that galls him. Though bereft of property, he is still the sport of fortune; though a tiller of the soil, he has no share in its produce, or any sure means of support. Though, confined to the domain, he has no abiding domicil. Home, wife, subsistence, children, friends, country, are all to him most precarious possessions; all depend, not only on the will, but often also on the life, the prudence, the foresight, or the fortune of his owner. He has no legal means of deliverance from the merciless exercise of that extreme authority to which he is thus subjected. Though this harshest of human relations is so brittle in respect of the superior party, it cannot, without his consent, be severed at the instance, or for the necessary protection of the inferior. The poor negro can rarely be released but by death, from the yoke of the most inhuman oppressor. To finish the injustice of this sad destiny, it descends upon his offspring. They are slaves to the latest posterity; except that his female descendants may, at the price of pollution, and by submitting to the lusts of their oppressors for three generations, restore freedom to a portion of the fourth.

## CHAPTER IV.

### **OF THE LEGAL NATURE AND INCIDENTS OF COLONIAL SLAVERY, AS THEY RESPECT ITS RELATIONS TO PERSONS OF FREE CONDITION IN GENERAL, THE MASTER AND HIS DELEGATES EXCEPTED.**

THE enslaved peasant attached to an extensive domain, as in Russia or Poland, may find his legal relations to free persons in general, of little moment to his security or welfare.—To him, the lord, the family and the agents of the lord, and his brother bondmen, constitute, for every important purpose, the whole community; for as it is with them alone that he has any ordinary intercourse, from their hands only, can he often receive either good or evil.

Such must have been generally the ease with all territorial slaves in ancient Europe; and probably is so in every country in which such men are still to be found, except in the western world.

But the plantation negro in our colonies, is exposed to daily intercourse with free persons who are wholly unconnected with the owner to whom he belongs.—He cannot attend the team to a town or shipping place, go to the market or neighbouring rivulet, or pass on any occasion beyond the boundaries of the estate, without meeting white persons, who possess, in regard to him, neither the rights nor feelings of a master.

The household slave, has naturally a still more frequent and extensive intercourse with free persons not of the master's family, especially when resident in a town. Unless, therefore, morals and manners are so singularly pure in the West Indies, as to supply the place of laws, the subject now under consideration must be one of no trivial consequence to the security and well being of the slaves. What then are their legal rights, in relation to persons not invested with an owner's or master's authority over them, whom, for the

sake of brevity, I shall call “strangers;” and how, as against these, are they protected from injustice and oppression?

This inquiry, if I had not much misrepresentation to refute, might be very briefly dispatched. — A West India slave can, strictly speaking, have no civil rights whatever, for he has no civil character, or personality. This harsh principle of the Roman code, has been adopted universally in our islands: not in terms indeed, for their slave law as I have observed, is for the most part not written, but in the spirit and effect of those practical rules, the legal force of which custom and opinion have established; and it has been carried into practice with more rigour than even the Roman bondman ever felt.\*

It is not inconsistent with this principle, that very recent laws have provided, or affected to provide, some protection for these poor beings, against a few of the many injuries to which their situation exposes them; for though free men are now declared to be liable to be punished for depriving them of life or member, and in some places for a few other extreme oppressions, it would be inaccurate to consider these cases, as instances of civil rights in the slave.

By a law of this country, commonly called the Black Act, the malicious killing, maiming, or wounding of cattle, is a capital felony; but we do not therefore consider cattle as having any civil rights. The legal crime in this case, as in the other, does not consist in the violation of any right of the sufferer, but in the injury done to the master’s property, or to public morals, or to the police and good order of the state. The sufferings cruelly inflicted on a sentient being, may indeed have been regarded by the legislature in adjusting the punishment; but a personal wrong, is not the essence of the crime.

The Roman lawgivers, when they began to curb excessive cruelty in masters, still adhered to their old artificial and illiberal notions on this subject; expressly regarding the slave as a mere *thing*, or subject of property, even in the moment of protecting him from ill treatment, and providing for him a legal remedy; but observing that it was for the public good,

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\* See *supra*, page 16.

that a man should not be allowed to misuse his own property.\*

If the poor negro were sufficiently protected from oppression, it would, I admit, be of little moment in what light he is theoretically regarded by the law; but I point out this civil impersonality, as a principle, which, if kept in view by the reader, will serve most clearly and comprehensively to explain our immediate subject. The relation to the master, imposes, as we have seen, the most rigid and extreme duties, while it gives no civil rights in return; but the general absence of the latter, constitutes the main evil, as well as the peculiar character of the state, in its relations to strangers.

## SECTION II.

**THE COLONIAL SLAVE CANNOT BE A PARTY TO ANY CIVIL SUIT, EITHER AS PLAINTIFF OR DEFENDANT, NOR CAN HE BE RECEIVED AS INFORMANT OR PROSECUTOR BY ANY COURT OR MAGISTRATE, AGAINST A PERSON OF FREE CONDITION.**

THE first practical consequence of the impersonality of the slave, is an incapacity to sue or be sued.

“ Wherever there is a legal right, there is also a legal remedy, by suit or action at law, whenever that right is invaded.” These are the words of Blackistone†, and he adds that it is a general and indisputable rule.

A slave, therefore, in our colonies, has in this view no legal rights; for he can maintain no suit or action whatever, either in his own name or by guardian.

This important disability, the leading fact in the present branch of our subject, has never been controverted, and will be found to be admitted by plain implication in almost every passage of the West India evidence as to legal protection, which has been or shall hereafter be cited. The colonial advocates seem to have regarded it as a necessary and universal consequence of a state of slavery, and which therefore neither admitted of, or needed, any concealment.

Yet in the pretended pattern of this slavery, the villeinage

\* *Expedit enim reipublicæ, ne sua re, quis male utatur.* (Instit. Justin. Lib. i. tit. 8. Sect. 2.)

† *Commentaries, Vol. III. Cap. iii.*

of England, no such disability is to be found. The villein could maintain suits of every kind against any of his Majesty's subjects, with the single, and that no invariable exception, of the lord to whom he belonged \*; and even the Roman slave, though he could not sue in his own name, was amply protected by the suit of his master, against all persons but the master himself, as I shall hereafter particularly shew.

Sir William Blackstone further remarks, that " rights would be declared in vain, and in vain directed to be observed, if there were no method of recovering and asserting those rights, when wrongfully withheld or invaded; and that when we speak of the protection of the law, we properly mean its remedial branches." †

It may seem then, that when the slave has been stated to be incapable of maintaining any suit, either in his own right or by guardian, and when it is added that he cannot inform or prosecute in any criminal case, the present branch of our subject might be dismissed, by concluding as an obvious consequence, that he not only has no legal rights, but is out of the protection of the law.

This, in truth, is, with a few unimportant exceptions, the actual condition of slaves in our colonies, as shall hereafter be fully proved; but I have here much controversy to encounter, and some specious fallacies to expose.

There are two possible modes, by which men in the defenceless condition which has been described, may be supposed indirectly to derive some legal protection, and in which it has been pretended that they actually are protected by the laws of our colonies, against the oppression of strangers, notwithstanding their civil incapacities: they are,

First, By the action or suit of the master;

Second, By indictment or other prosecution, at the suit of the Crown.

I must next therefore consider these modes of protection, and shew their true nature and extent.

\* "Also every villein is able and free to sue all manner of actions against every person, except against his lord to whom he is villein; and yet in certain things he may have against his lord an action," &c. (Litt. Villeinage, Sect. 189.)

† *Commentaries, Vol. I. Introduction, Sect. 8.*

### SECTION III.

**THE ACTION OR SUIT OF THE MASTER AGAINST OTHER PERSONS OF FREE CONDITION BY WHOM HIS SLAVE HAS BEEN INJURED, IS A MODE OF REDRESS APPLICABLE ONLY TO A FEW PARTICULAR SPECIES OF WRONGS, AND IS IMPROPERLY REPRESENTED AS LEGAL PROTECTION TO THE SLAVE.**

Few things within the range of possibility, that can be alleged in extenuation of this dreadful system, have escaped the inventive powers of all its numerous defenders. It is not strange therefore that some of them should have ventured to affirm, that the remedy we have now to consider, is an effectual and general protection to slaves against the violence or injustice of all free persons, the master excepted. By several of the colonial witnesses, a proposition of this kind was insinuated, and by two or three of them it was boldly advanced, in the most positive and unqualified terms. \*

But to make their evidence consist with the known principles of English law, as in force in the colonies, or with the admissions of other witnesses on the same side, or with the truth of the case, their general statements must be reduced to a very narrow and particular meaning, as I shall now proceed to explain.

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\* "Q. What is the protection granted to slaves by law in each of the British Islands ?

"A. With respect to any other person but the owner, an action of damages lies on the part of the master." Evid. of Mr. Spooner, their agent of Grenada and Saint Christopher, Priv. Coun. Rep. Part III. A. N. 2.

To avoid repetition I postpone some strictures, on the testimony of which this is an extract, till I proceed to the consideration of the supposed remedy by indictment, to which the same gentleman also speaks, and in the same paragraph.

To the same question, another public officer gave this answer. "An action of trespass will lie against strangers, at the suit of the master, for any ill treatment shewn by them to a slave." (Same Rep. and Part, title St. Vincent, A. N. 2.)

The agents of the island of Antigua spoke still more strongly to the same effect. "In all other respects (i. e. all but the case of murder) the slave derives his protection from his master, who has his remedy at law for any injury or abuse his slave may receive from the hands of another person." (Same Rep. and Part, title Antigua, A. N. 2.)

There is no express law in any of our colonies, not even in the new and ostensible code, generally to regulate this subject\* ; nor is it indeed alleged by any of these witnesses, that the suits or actions of which they speak, are founded on any act of Assembly. The consequence is, that the law of England; which, when unaltered by positive institutions, forms the rule between free subjects in the colonies, can alone determine, whether any and what remedies can be had by masters in the insular courts against free men, for injuries done to their slaves.

Now the law of England, has been already shown, to furnish no rules specifically applicable to the slavery of the West Indies, either in respect of the master's rights, or the civil disabilities of the slave ; both of which so far exceed the rigout of the slavery once known in this country by the name of villeinage, that there is scarcely any analogy between them.

But the interest which a master has in the labour of his servant, or apprentice, is an interest which the law of England recognizes ; and therefore it gives an action to the former, for any hurt unlawfully done to the person of the latter, whereby his service is interrupted or lost.

On the same principle it has been rightly considered as law in the West Indies, and in a few extreme cases has been practically received and acted upon as such, by the insular courts, that the master of a negro slave, may maintain an action against any man who without his authority beats or wounds the slave so severely, *as to occasion a loss of his service*.

The colonial master's right to the service of his bondman however, forms but a part of his legal title. He is not only master, but *owner* ; for the primary and all pervading notion of the system is, that slaves are property ; consequently, the

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\* The Jamaica Assembly, in its answers to the inquiries of the Privy Council, referred for the legal protection of slaves in all cases, to the consolidated Slave Act of that island, which will be found to give no remedy by action to the master. The old and new laws of the other islands relative to slavery, are also all before the Privy Council and Parliament, and they give no such remedy in any case, though one or two of the recent acts *affebt* to advert to an action by the master, for certain particular wrongs, as if it were an existing remedy.

remedies given by the laws of England, to the owner of a chattel, which is destroyed or deteriorated by the unlawful act of another, may be prosecuted by the proprietor of a slave in the West Indies, who has sustained damage through a similar wrong.

To this extent then, and no further, the personal injuries received by this hapless order of men from strangers of free condition, may be the subject of a suit by their masters. If the effects of the injury be detrimental to his property, either by creating a temporary incapacity of labour, or a lasting diminution of their value, the law will give him a recompense in damages. In these points, as in most others, the law of the colonies, in respect of negro slaves, is precisely the same as the law of England, in respect of horses and other working cattle.

It is evidently improper to represent this remedy of the master, as legal protection to the slave: it is in truth protection only to the property which the master has in his slave's person; and therefore, when the subject of inquiry by the privy council was, what provisions were made by law for the security of these unfortunate men against oppression, it would have been disingenuous in the colonial agents to allege the master's right of action as a provision of that kind, even had they not been unfair enough to conceal its very limited extent. That negroes were the *subjects* of civil suits *as property*, was not in dispute or doubt; and the spirit of the question was, how were they protected by law, not as chattels, but as sentient beings.

That the remedy can in truth only be of the very narrow and imperfect nature here explained, must be further evident to the English lawyer, when he is told that the common law of this country, determines in the colonies the forms of actions, as well as the principles on which they stand; for what English action could be adapted to the case of a master, who would maintain a suit in his own name and right, on account of the ill-treatment of his slave, except on the ground of actual damage to his property?

The Roman law gave the master an action in most cases of wrongs received by his slave, whether there was any actual damage sustained by himself or not; and as the civil in-

capacity of the colonial slave has been borrowed from that rigorous code, it may be thought that this compensatory provision ought also to have been admitted in his favour; but this could not be done, without the aid of positive law; for it is against the poor negroes only, not the privileged class, that rules and maxims repugnant to the laws of this country, are tacitly received in the colonies; and the remedy of the Roman master, was founded on principles, and prosecuted in a form, not less unknown to the law of England, than to that of our West India islands.

Affronting, or reproachful, words or actions for instance (*contumelie* and *convicia*) although not of the nature which our law deems libellous or defamatory, were wrongs for which the Roman code gave redress; and the ill treatment of a slave, whether by violence, defamation, or other modes of injury, was regarded as an affront, *convicium*, and consequently "*injuria*" an injury in law, to the master; the latter therefore might maintain an action, for a blow given to, or an opprobrious expression used towards, the former, for the seduction of a female slave, and for various other wrongs, some of which are remediless by the English law, even when inflicted on free persons.\*

But there where cases of personal injury to a slave, by which the master could not reasonably be held to be affronted; the case, for example, of a blow given, or other

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\* Digest, Lib. xlvii. tit. 10. *De injuriis, &c.*

For such injuries by personal violence to the slave, as produced any actual damage to the master, whether by the loss, or deterioration of his property in the body of the sufferer, a remedy was given by the Aquilian law, which had the same limits with the action of the West India master, In the commentary on the term "*ruperit*" in the third chapter of this law, it is said, "Rupisse eum utique accipiemus, qui vulneravit, vel virgis, " vel loris, vel pugnis cecidit, vel telo, vel quo alio, ut scinderet aliqui corpus, " vel tumorem fecerit: sed ita demum si damnum *injuria datum est: car-* " *terum si nullo servum pretio viuorem deterioremvae, fecerit, Aquilia cessat;* " *injuriarumque erit agendum duntaxat, &c. (D. 9. 2. 27. 17.)*"

A curious example afterwards given, serves to mark in a very striking manner the principle of this distinction. "Et si puerum quis *castraverit, et pretiosorem, fecerit, Vivianus scribit cessare Aquiliam; sed injuriarum, erit agendum, &c.*" (§ 28.)

wrong done, to a slave who was supposed by the offender to be a free person, or to belong to a different master. The justice therefore of the Roman law, provided another and more direct remedy, by the action *nomine servi*, in which the master sued to recover satisfaction in the name, and doubtless, for the benefit, also of his injured slave.\*

There can be no good defence for the Assemblies in their total neglect of provisions like these. Since, in conformity to the Roman law, their slaves were rendered incapable of suing in their own behalf, an action *nomine servi*, ought to have been given to the master, and made equally remedial with that of the Roman courts, in respect of all such wrongs, at least, as by English law are actionable between free persons. But the volumes of the insular laws, not excepting the late meliorating acts, will be searched in vain for any such just and humane enactments. In this, as in other cases, they have copied only the harsh part of the precedents to be found in the worst slave laws of other countries.

The assertions which I have cited from colonial testimony might be refuted, in their generality at least, by com-

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\* “ Interdum *injuria servo facta, ad dominum redundat, interdum non, &c. Si quis sic fecit injuriam servo, ut domino faceret, video dominum injuriarum agere posse suo nomine: si vero non ad suggillationem domini id fecit, ipsi servo facta *injuria, inulta a Prætore relinqui non debuit: maxime, si verberibus, vel quæstione, fieret.**” With a curious compromise between humanity and the absurd metaphysical notion that a slave, not being in law *persona* but *res*, was not a sentient being, it is added, “ *hanc enim et servum, sentire palam est;*” D 47. 10. 15. § 45. 55.

It appears that the *actio nomine servi* was not allowed for petty wrongs; but though “ whipping and torture” are here put emphatically, as clear instances of injuries to the slave’s person, for which it might be brought; the remedy was by no means confined to wrongs of that description, or magnitude. “ *Prætor non ex omni causa injuriarum, judicium servi nomine promittet; nam si leviter percussus sit, vel maledictum ei leviter, non dabit actionem.*” — Dig: ubi sup. § 44. The law goes on to discriminate with an anxiety which would astonish a West India reader, between the different descriptions of slaves, in regard to their professions, employment, and character, which the *Prætor* is directed to take into his consideration when a suit is brought *nomine servi*, for *libelling a man of this condition*, in order to guide his discretion in allowing or disallowing the action.

paring them with the statements of other witnesses of the same party. \*

But if such loose assertions can be thought to deserve still further refutation, it will be found in the total want of all the satisfactory evidence by which, if true, they might easily have been supported. It will be time enough to believe that some

\* <sup>4</sup> The protection at present granted to slaves against their owners is "very inconsiderable, and their protection against others, consists only in "the owners' action of damages against the person who does them any *personal wrongs*, even homicides which are not wanton and wilful. And for "the wanton and wilful killing the slave of another, the law has prescribed "a penalty of double the value of the slave to the owner; and 2*sl.* to the "treasurer." (Evidence of Governor Parry of Barbadoes, Priv. Coun. Report, Part III. title Barbadoes, A. N. 2.)

Even the Council and Assembly of Grenada did not venture to support the rash statement of their agent, but pretty intelligibly reduced the remedy of the master to its true legal limits.

" Whenever an instance of *cruelty* comes to the knowledge of the neighbours, and can be brought forward for punishment, as against strangers, " the master usually steps forward as protector of the slave, and prosecutes " the delinquent criminally, and moreover, sometimes brings his civil action, " and recovers damages for the loss of his slave's labour, or the diminution of " his value, where that is the consequence of the stranger's ill-treatment of " him." (Answers of the Council and Assembly of Grenada, Privy Council Rep. Part III. title Grenada and Saint Christopher, A. N. 2.)

Here we see that, not ill-treatment generally, but "*cruelty*," such as in West India ideas, in reference to the treatment of negroes, may deserve that name, and *cruelty*, by which the sufferer's labour is lost, or his value diminished, is the wrong for which alone a remedy is alleged to be found in the master's action.

The Council and Assembly of Antigua did not discountenance their own agents quite so plainly; but perhaps to the apprehension of a lawyer, this brief answer will be found to indicate sufficiently the gross inaccuracy of his statement.

" If the slave is beaten, the master has a right to recover damages by an *action on the case*." (Priv. Coun. Rep. Part III. title Antigua, A. N. 2.)

The question to which these answers are given, applied to protection generally, "*What is the protection granted to slaves by law, in each of the British islands?*" The answer of the Antigua agent was equally general, (see supra, p. 133, note.); but the *Council and Assembly* refer the master's remedy here to the case of *beating* alone; and it is for this single species of injury to the slave, that it is said the master may recover damages, by an *action on the case*; which supposing the only cause of action to have been that he sustained damage, by a loss of service, or permanent deterioration of the property, is perfectly correct, on the principles of English law.

new forms of civil actions have been devised in the West Indies, by which men who have no civil personality, can be protected from all personal wrongs, when the colonial acts which have given, or the judicial records which attest the use of, any such remedies, shall be produced:

There is one species of injury, for which I admit that an adequate remedy might be found in the master's right of action, were it not for certain general impediments to the course of justice in the colonies, which will soon claim our attention. "If a negro" (says the Council and Assembly of St. Christopher) "is deprived of his property (*which in legal consideration is the property of the master*) by another negro, "or by a free person, the master of such a negro has the same "legal remedies for the recovery of it, as he has for his own "immediate property." \*

This answer, though evasive and disingenuous, is true. It is evasive, because the question being "what protection is granted "to slaves by law," a mere accidental consequence of one of their civil incapacities, ought not to have been brought forward as an instance of legislative protection. They have, as is here distinctly admitted by the Council and Assembly, no right of property whatever; not even that qualified right, which was allowed to the English villein; or that which belonged to the Roman slave, by the name of his *peculium*. If they become possessed of any subject of property, which the master permits them to occupy, it is still considered by the law as absolutely belonging to him, and in his immediate possession. It is not necessary, as it was under the law of villeinage, that he should seize the goods of the slave, or do any other act manifesting an intention to exercise his right of ownership over them; for the property vests in him the moment the goods are acquired by the slave himself. It is an obvious and necessary consequence therefore, that the master must be intitled to an action, whenever this his own right of property is unlawfully invaded, unless any act of Assembly had strangely declared that this part of his property should be out of the protection of the law.

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\* Privy Council Report, Part III. title Grenada and St. Christopher, A. N. 2.

How far this remedy of the master is an effectual protection to the slave in any case, as to the property he is allowed to acquire, we shall presently see; but it is proper here to notice the narrow limits to which this article of protection is, even in legal theory, confined.

It can extend only to such rights of property as are obtained and exercised through a corporeal and immediate possession of the subject of property itself; for it is by actual possession alone, that negro slaves can acquire property so as to vest it in their master. This is another consequence of their total want of civil personality, in the absence of all positive institutions to qualify the evils of such a state. They cannot contract, or be contracted with; and are incompetent parties to any assignment, bequest, gift, or other disposition of property, whereby a title may be created to things incorporeal, to a sum of money, or to any other effects not immediately delivered. If we could suppose so strange an instrument as a promissory note or bond made to a negro slave, it would just have as much legal effect in the colonies as if the payee or obligee were a horse or a spaniel; and to hold that the master might maintain an action, would be regarded as not less absurd in the one case, than in the other.

Here again, the harsh rule borrowed from the Roman law, is not mitigated by such compensatory provisions as were devised by that stern code itself. Though the Roman slave was not a person, his contracts were not absolutely void, nor incapable of being enforced by law. There was a remedy against him, to the extent of his own special property, or *peculium*, by action against the master; and on the other hand, there was a like remedy for him through the actions of the master, by which contracts made with the slave might be enforced for his benefit\*; so that the Roman slaves found

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\* *Instit. Justin. Lib. IV. tit. 7.* The Roman law, in this, as in most other respects, placed slaves, and persons under parental authority, precisely on the same footing. There were many prescribed forms of action against the father, or master, varying not on account of those different relations, but only according to the particular circumstances of the debt or demand; and the distinctions anxiously made between these actions in the imperial institutions, shew their great frequency and importance.

no difficulty in contracting and trading as merchants, which many of them did very extensively, notwithstanding their civil disabilities, to the improvement of their situation, and to the frequent attainment of freedom itself.

But the West India master is in no case liable to, or can maintain, any such action. The acts of Assembly will not be found to have provided any remedy of the kind; and I challenge those who have wished to magnify the protecting power of the master, and who have enormously exaggerated the amount of property sometimes possessed by Negroes, to produce, if they can, the record of a single action founded on the contract of a slave, from any Court in the West Indies. They have not, however, to my knowledge, ever pretended that any such action will lie.

This boasted remedy by the master's action then, is in fact

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If the son, or slave, for instance, carried on any general business *on account of the father, or master*, the contracts of the former in that business were regarded as fully obligatory on the latter, and by actions called *exercitoria* and *institutoria*, he might be compelled to perform them: but when the *peculium* only, was the source of credit, or subject of commercial dealings, in the course of which the son or slave entered into any contracts and afterwards failed to perform them, the *actio tributoria* was given, by which the parent or master was compelled to distribute the *peculium*, with its profits, equally among the creditors.

Again, there was an action against him, *de peculio, deque eo quod in rem domini versum erit*, in which there was a remedy on contracts of his son or slave, though made against his will. This extended however only to the value of the *peculium*; except when it could be proved, that the son or slave had applied any part of his own money or effects to the father's or master's use; as in paying his debts, repairing his house, buying necessaries for the family, or the like; in which cases, the latter was obliged to pay to the full value of what had been so applied.

On the other hand, the father or master had a power of enforcing, by his action, every contract or stipulation made with his son or slave, whether made on his own account, or for the improvement of the *peculium*. (See the Institute where last cited, and the Digest, Lib. XLV. tit. 5. *De stipulatione servorum.*)

The careful distinction made between the *peculium* of the slave and the property of the master, is evident, from a provision in favour of the latter, in the case of the *actio tributoria*, which intitles him to share rateably with the other creditors of his slave, in the distribution of the *peculium*, if any thing is due to himself— “*inter dominum, si quid ei debebitur, et ceteros creditores, pro rata portione distributatur.*”

limited to redress for such personal violence as impairs the value of the slave, and to the recovery of property wrongfully taken out of his possession.

For any other of the numerous civil wrongs, by which a man's welfare and happiness may be injured or destroyed, redress, in this mode at least, cannot possibly be obtained. I proceed, therefore, to consider that other mode of protection, by which it was admitted to be possible that men totally disabled from invoking the aid of the civil magistrate, may nevertheless be placed in some degree under the safeguard of the law, namely, "prosecutions at the suit of the crown."

#### SECTION IV.

##### THE LEGAL PROTECTION OF THE SLAVE AGAINST STRANGERS BY INDICTMENTS, OR OTHER PROSECUTIONS AT THE SUIT OF THE CROWN, IS ALSO OF A VERY NARROW EXTENT.

It has been boldly alleged, as the reader may remember, that this mode of protection is very ample and effectual, as well against the master as against strangers\*; and though I have already shewn the falsehood of the assertion, as far as it relates to the former, in respect even of those acts of inordinate violence and cruelty, to which alone, in his case, the remedy can possibly apply; yet, for the purpose of protection against persons not invested with the master's authority, the police and penal justice of the country may be supposed, perhaps, to have a wider range; and therefore, though some of the facts and strictures already offered will be found applicable to this branch of my subject, as well as to the former, it may be pro-

\* The following extraordinary passage may be added to former quotations on this head:—" *It does not appear to your committee, that any other laws are necessary for the purpose of giving protection to slaves against any persons who shall commit acts of violence or injustice towards them; as they find, on examination of the court records, that the criminal courts of justice have always taken cognizance of barbarous treatment of slaves, in the same manner as crimes of a similar nature committed against white and free persons. The committee therefore observe, with great satisfaction, that the laws of the island have afforded ample protection to slaves.*" (Report of the Committee of the Legislature of St. Christopher, Papers of 1804. Ho. Com. 7.)

See also the next following note.

per here to examine a little more distinctly the criminal law of the colonies, as it relates to offences committed by strangers or free persons in general against slaves.

Since the colonial witnesses and assemblies did not scruple to misrepresent the first principles of their slave law, for the purpose of inducing a belief, that the Negro is protected by the penal code against the oppression of a bad master, notwithstanding his extreme authority; it would, to be sure, have been strange if they had been so abstemious or inconsistent, as not to assert that the legal protection against strangers, is at least equally extensive. In fact, they, for the most part, omitted to distinguish at all in this respect between those two apparently very different relations; an inaccuracy which might alone suffice to discredit their statements; but which, I must admit, is not so culpable or unnatural as a European lawyer might reasonably imagine; since the poor Negro is, in many respects, the slave of every white man he meets with.

Supposing that these poor beings were really regarded by the criminal code with as much favour as free men, and that the law of England were the rule as to both, still the assertions which I am combating, would be quite preposterous; for we should certainly have no ground to boast of our own laws, as giving "ample protection," if they protected us only against those wrongs for which an information or indictment will lie: but in respect even of offences by English law indictable, it was a gross misrepresentation to allege that the slaves are protected against them.

It might, perhaps, be sufficient refutation to compare these statements with each other \*; but lest their imposing boldness,

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#### \* ANTIGUA.

" If the slave is beaten, the of-  
" sender may be bound over to the  
" sessions, and prosecuted by in-  
" formation or indictment." ( Coun-  
" cil and Assembly of Antigua, Privy  
" Coun. Rep. Part III. title Antigua,  
" A. N. 2.

" Heretofore I do not recollect  
" that there was any particular pro-  
" tection given to the slave; but  
" since my return to this country, I  
" am told there is an act in the  
" island (Antigua), that white per-  
" sons ill-using a slave are brought  
" to sessions, if the proprietor  
" chuses to prosecute them.

Q. " Do you recollect any in-

and the respectable stations in life of their authors, should obtain for them a partial credit, let us examine the legal foundations on which alone such assertions can possibly stand, and the evidence by which they are sustained.

“ stance of slaves being beat by  
“ white persons, not their masters,  
“ without legal redress?”

A. “ Yes.” (Com. Rep. of 1790,  
p. 355. Evidence of *Alexander Willock, Esq.*, an eminent West Indian merchant, and a planter of Antigua, who had resided thirty-six years in that island, and was produced by its public agents.)

Mr. Willock had been misinformed as to the act he speaks of. The laws of Antigua were produced, and annexed to the Privy Coun. Rep. and there is no such act. His testimony therefore clearly contradicted the answer of the Council and Assembly.

#### ST. VINCENT.

“ I have no doubt but a master  
“ would be punishable by indict-  
“ ment in the criminal courts of  
“ law, for any *enormous acts of bar-  
“ bary which he might commit,*  
“ though such acts might not be  
“ expressly laid down and prohib-  
“ ited by the words of the Slave Act.  
“ The *same reasoning* holds good in  
“ the respect to *strangers*.” (Evi-  
dence of Governor Seton, of St.  
Vincent, Privy Coun. Rep. Part III.  
title St. Vincent, A. N. 2.)

“ The murder of a slave in some  
“ islands is only punishable by a  
“ larger fine; and the dismember-  
“ ment and mutilation of a slave,  
“ by a smaller fine. Some of the  
“ Slave Acts are silent upon the  
“ subject of the murder of a slave;  
“ and, therefore, it has been sup-  
“ posed in those islands, that the  
“ murder of a slave was punishable  
“ by the common law of England;  
“ however, upon considering the  
“ latter part of the second clause  
“ in the St. Vincent’s Slave Act,  
“ which is also introduced in some  
“ of the Slave Acts of the other  
“ islands, I am of opinion that, by  
“ the inference to be drawn from  
“ that clause, wherever it is force,  
“ the murder of a slave is not pu-  
“ nishable by the common law, as a  
“ capital offence. I never knew

Whatever prosecutions the insular courts really entertain, must evidently be founded either on the positive law of the colonies, or on the common or statute law of England as there

“ but one instance where a man  
“ was punished by the law in St.  
“ Vincent’s for cruelty to a slave,  
“ and that was very lately. I have  
“ heard of other instances of cruelty,  
“ notorious, which have gone un-  
“ punished.” (Evidence of Drury  
Ottley, Esq., Chief Justice of St.  
Vincent. Com. Rep. of 1791. Pa.  
159 and 162.)

#### GRENADA.

“ Wherever an instance of cruelty  
“ comes to the knowledge of the  
“ neighbours, and can be brought  
“ forward for punishment as against  
“ strangers, the master usually steps  
“ forward as the protector of the  
“ slave, and prosecutes the delin-  
“ quents criminally.” (P. C. Rep.  
Part III. title Grenada, &c. A. N. 2.  
Answer of Council and Assembly of  
Grenada.)

“ The persons prosecuted, and  
“ who certainly were guilty, have  
“ escaped for want of legal proof.”  
(Same Council and Assembly of  
Grenada, P. C. Rep. Part III. title  
Grenada, A. N. 4.)

See this answer more fully given in page 20. The context in the answer at large, sufficiently shews that no conviction had ever taken place in that island, except in a single case for murder, which has been so variously related by different witnesses, and without any production of a copy of the record, as to create a strong doubt whether it was any exception at all. It is most probable that the murdered woman, though a negro, was not a slave.

#### ST. CHRISTOPHER.

“ With respect to any other per-  
“ son but the owner, an action of  
“ damages lies on the part of the  
“ master, and an indictment will lie  
“ against the offender, and such in-  
“ dictments have been preferred.”  
(Evidence of the then agent for  
these islands. P. C. Rep. Part III.  
title Grenada and St. Christopher,  
A. N. 2.)

“ I do not know that there is any  
“ law which punishes the master for  
“ any cruelty exercised over his own  
“ slave, except the law passed in  
“ the island of St. Christopher,  
“ which I have mentioned before,  
“ but the *manager* who *acts under*  
“ *him* is *liable to be indicted before*  
“ *the proper court of the island for*  
“ *any indictable offences committed*

in force; for, though many of the rules of the slave law rest on mere usage and common opinion, the conviction and punishment of a free man must have some more sure and legitimate warrant.

The witnesses who brought forward these pretences before the Committees of the Privy Council and of the House of Commons, were not in general interrogated as to the legal basis or origin of the remedies of which they spoke; but had any such information been demanded, they would probably have been as various and discordant in their answers in this case, as in that of protection against the master. One witness, for instance, would, as in that case, have referred to the common law of England, another to the law of villeinage, a third to the acts of assembly, and a fourth to that convenient phrase the “general principles of law.”\* But as they have furnished

“*against a Negro.*” (Evidence of the same agent, same Rep. and title, A. N. 4.)

How grossly inaccurate this account of the master’s action is, we have lately seen; and the particular law to which the last answer alludes, is an Act of Assembly alleged by this witness alone, and which never in fact existed. As to the strange distinction here made between the *owner* and *manager*, it is not only totally unfounded, and unsupported by any other witness on the part of the colonies, but is manifestly inconsistent with the ordinary administration of a slave owner’s authority in the British West Indies. The manager, so called in all our islands, except Jamaica, where he takes the name of *overseer*, is the proprietor’s chief representative on the plantation, and often, in his absence, his only acting attorney in the colony; but whether so or not, he is the supreme master within the plantation itself; and by him, with the aid of subordinate agents, the discipline and government of the slaves are wholly administered; a power, therefore, withheld from the manager, would in most cases be lost to the owner himself.

\* See Chap. I. and III.

See also the evidence of Sir Ashton Warner Ryam, late Attorney General of Grenada, Com. Rep. of 1790, 96 to 127. This very eminent colonial lawyer, like other witnesses on the same side, was driven, if I at all understand his testimony, to refer the prosecutions which he supposed might lie, to the common law of England.

We have just seen how radically the Governor and Chief Justice of St. Vincent differed from each other, as to the law of that island on the subject immediately before us; and it may be amusing to compare together the accounts given by two respectable gentlemen of another island (Nevis) with which they were connected by long residence and property, and on

no such explanation, let us briefly examine those only sources of legal authority, from which the protection in question can be drawn.

behalf of which they were produced as witnesses; and to compare their accounts also with that of their own Council and Assembly. They relate to the subject now before us, in common with the case of protection against the master.

## NEVIS.

## MR. THOMAS.

Q. "Was it generally believed in the island of Nevis and St. Christopher, that the law of England extended its protection to slaves in those islands?"

A. "Before the framing of the colonial laws by the legislative bodies of the different islands, the master had an absolute authority over his slaves." (Com. Rep. of 1790, p. 257.)

## MR. TOBIN.

Q. "Do you conceive it to have been the general opinion that the English law extended to slaves in the islands of Nevis and St. Christopher?"

A. "I apprehend it was the general opinion, because prosecutions have been carried on under the laws of England." (Com. Rep. 1790, p. 272.) Respecting these famous prosecutions, see *supra*, p. 45. and the Appendix there referred to.

## COUNCIL AND ASSEMBLY.

"The protection granted to slaves by law, in respect to their property, or the safety of their persons, is through the medium of the master, who may prosecute, or demand security of the peace, on behalf of his slave. But in the case of the actual murder of a slave, the party is liable to an indictment for felony, at the suit of the crown.

"We have not any colonial law enacted expressly for the protection of slaves." (P. C. Rep. Part III. title Nevis, A. N. 2 and 4.)

The reader, perhaps, has heard of "the glorious uncertainty of the law," as a sarcasm on English lawyers. Some uncertainty in the exposition, or administration of the law, is no doubt a known and unavoidable evil; but what would be thought of an uncertainty among our lawyers, and in our Parliament, whether statutes of the first practical importance to the bulk of the community are, or are not, in our statute book? Whether any such acts were ever passed? Whether such acts, or some foreign laws, or some very general and comprehensive unwritten laws, or some very special and limited unwritten laws, are the existing rules of judgment in our criminal courts, in respect of the most ordinary offences?

One inference, at least, might be clearly drawn from such strange uncertainties: — it might be safely concluded, that, however common the offences might be, respecting which the rule of law was so doubtful, convictions or prosecutions for them, had rarely, if ever, been known.

And first, as to the slave law of the colonies.

That there is not in any of our islands any Act of Assembly by which offences against slaves, by free strangers, are expressly referred to the general criminal code, is a proposition which now, when the written slave laws are all before Parliament, is not likely to be disputed. If it be, let the act be pointed out that contains any such provision.

The colonial legislatures themselves, indeed, for the most part, admitted in their answers to the enquiries of the Privy Council in 1788, that their written laws had given no protection to slaves \*; and even the meliorating acts, which have since been passed in several islands, will be found in general not to hold out to them any protection against strangers of free condition, except in the few special cases in which it is affected to be given against the master himself. They relate in general only to one species of injury, that of violence to the person; and so far are the new acts from making all injuries even of this kind, indictable, that they plainly imply the contrary; since the greater part of them prohibit it only by special and aggravatory descriptions, such as "*wanton and cruel*" beating, wounding, &c.; and they subject the offender in cases so described, to such punishment only as might by our law, and by their own, have been adjudged for the slightest assault on a free person.†

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\* See the answer of the Legislature of Nevis, in the last note.

See also that of the Legislature of Grenada, Priv. Coun. Rep. Part III. A. No. 4.; and generally the answers of the Councils and Assemblies in that Report, respecting their laws for the protection of slaves.

† "Be it enacted, &c., That if any master, mistress, owner, possessor, "or other person whatever, mutilate or dismember, or *wantonly* or *cruelly* "whip, maltreat, beat, bruise, wound, or imprison or keep in confinement, "without sufficient support, any slave or slaves, he, she, or they shall be "liable to be indicted for such offence in the supreme court of judicature, "or in either of the assize courts of this island, and upon conviction shall "be punished by fine, not exceeding 100*l.*, or imprisonment, not exceeding twelve months, or both; and such punishment is declared to be without prejudice to any action that could or might be brought at common "law for recovery of damages, for or on account of the same, in case such "slave or slaves shall not be the property of the offender." (*Last Consolidation Act of Jamaica before referred to, sect. 25.*) In the former acts, after the words declaring the liability to be prosecuted or punished, it was added, "any law, usage, or custom, to the contrary notwithstanding."

Is it then on the common or statute law of England, as in force in any of the colonies, that the prosecutions in these cases can be founded? This is the pretence to which some

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The meliorating acts of Grenada, of the Bahamas, and other colonies, are liable to the same remarks. They, for the most part, give their ostensible protection against masters and strangers indiscriminately, to the same extent, and in the very same words. The punishment annexed to highly aggravated acts of cruelty by either, is fine and imprisonment; and generally with such limitations as would make these laws utterly inconsistent with their avowed principle, if strangers had been previously liable to be indicted for every assault and battery of a slave.

The first meliorating Act of Dominica affected to make some distinction between the master and strangers; for it enacted that any white or free person, who should be guilty of "striking or severely beating any slave or slaves, *the property of another*, or of depriving any such slave or slaves of any property in his, her, or their possession," should be liable to be fined on conviction in a sum not exceeding thirty pounds currency. (Act of 1788, re-enacted in 1793, sect. 21.)

The loose language of this section, I would here observe by the way, might alone serve to shew that it was not framed with any view to its actual operation; but for the colourable purpose only which General Prevost, the governor, afterwards explained, (see Papers on the Slave Trade, Ho. Com. 1805, p. 36.); for as the words stand, the penalty would extend to *managers* and *overseers*, equally with strangers, and of course subvert the ordinary discipline of plantations. But these mock enactments may serve as well to indicate what was the anterior law in the opinion of the legislators, as if they had been passed in a sincere spirit of reformation. When therefore, we find that the punishment for *severely beating a slave and taking away his goods*, is limited to a fine of 30*l.* currency at the utmost, then about 17*l. 2s. 10d.* sterling (with restitution of the goods taken), no further proof can be desired that these offences were not, before the act, understood to be punishable by imprisonment as well as fine, *at the discretion of the court*.

The act of the Leeward Islands ingeniously introduced its provision for the subjecting owners to indictments in cases of *cruelty*, with a recital that it is "in order to remove any doubts that may arise on the subject;" and with a little more attention to consistency, than is to be seen in the other ostensible acts, it distinguished between the case of owners of slaves, and "persons to whom the slave ill-treated does not belong." "Every person who shall beat or maltreat any slave not belonging to himself or herself," shall be indicted and punished, &c. by fine and imprisonment. Sect. 16.

Here it is not insinuated, as in the master's case, that the act is merely declaratory, or made to obviate doubts; but if it were, how could any doubts possibly have existed in 1798, on a subject of such general concern and extensive local importance, if in truth the liability both of owners and strangers to prosecution in these cases had been so well settled both in law and practice prior to 1788, as was then stated to the Privy Council?

of the colonial witnesses expressly, and more by insinuation, have resorted. The evidence of the late Sir A. W. Byam, then attorney-general of Grenada, admits of no other construction. But that the same pretence, as to the protection against

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In St. Vincent, the legislature seems, by its act of 1801, pretty fairly to have admitted the true state of the previous law. Without any pretence of a doubt to be cleared, and in the proper terms of a new law, enactive, not declaratory, it makes "the severe, wanton, and malicious wounding, bruising, cutting, maiming, disabling, or dismembering a slave by any person or persons whomsoever, an indictable misdemeanour, any law to the contrary thereof notwithstanding;" and adds a saving clause of the civil remedy of the owners. (Papers of 5th April, 1816, Ho. Com. p. 170, 171.) Not only must the slaves have been wholly unprotected, in such barbarous cases before, but an ordinary whipping or battery by a stranger, is clearly not within the act, and therefore not punishable at this day. If the reader can doubt of this having been designed, in a colony so recently settled by British subjects, and whose earliest lawgivers were our own contemporaries, I request his attention to the following extract of an act of 1767, in their own printed book of laws.

"Be it further enacted, that if any free person or persons whatsoever shall *geld or dismember* any slave, such person or persons so offending shall and may be prosecuted by presentment, indictment, or information, and on conviction of any such *gelding or dismembering*, the offender or offenders shall be fined any sum not exceeding 60*l. current money*, or less than 40*l.*, and shall be imprisoned until such fine be paid, and all fees," &c. (Sect. 54.)

Slave murder was by the same law only punishable by a fine, or treble damages to the owner. (See sect. 2. 15. 53., &c. and the construction put on the act by the Chief Justice of the island in his evidence before the House of Commons, to which I have before referred), and such continued to be the law of St. Vincent till 1801.

At *Barbadoes*, to a still later period, not only the members, but the life of a slave were at the mercy of every free person, except a suit in the Exchequer, for a small fine, can be regarded as an adequate protection against murder.

The Advocate General of the island, in an official report to the Governor, Lord Seaforth, dated October 25, 1804, respecting the then recent horrible murder of a slave by persons who had no private authority over him, says, "Colbeck (the master) brought his action in the Exchequer, under the act of the island, against Crone and Hollingsworth (the murderers). The cause was ready to be tried, and the court had met for the purpose, when Crone and Hollingsworth thought proper to pay double the value of the boy, and 25*l.* for the use of the island, with all costs, rather than suffer the business to go on, and this, I am truly sorry to say, was the only punishment which could be inflicted for so barbarous and atrocious a crime." (Papers of 1805, Ho. Com. page 9.)

strangers through the civil action of the master, is unfounded, has, I trust, already been demonstrated; and it is not less evidently groundless in respect of prosecutions against strangers at the suit of the crown.

The law of England, knowing no such state of man as that to which negroes in the West Indies are confessedly reduced, can have settled nothing criminally or civilly, that directly applies to such a state; nor can any rules be derived from our law, through the analogy that their condition bears to any other which that law has recognized; because the state of villeinage, which is the nearest approach to it in one point, differs from it widely and radically in every other; as has already been generally shewn.\*. The obligation of life-service excepted, the condition of the villein bore less resemblance to that of the enslaved negro, than to modern British freedom.

The villein was not more fully protected against free strangers by the criminal, than by the civil, jurisprudence of his country. He was a *person* in law, and the master's power of correction apart, could invoke the protection of the courts, exactly in the same manner with free subjects of the realm; nor was he, when called to answer for his conduct in any civil or criminal suit, at all distinguished from a free man, either as to the mode of trial or the consequences of the judgment; whereas the negro is, as will hereafter be seen, subject to a peculiar police, and to a rigorous code of penal laws made for his peculiar government; and he is not less incompetent to prosecute or accuse a free man in any court of criminal jurisdiction, than to institute a civil action. How then can we fairly reason from the legal situation of a villein, to that of a colonial slave; or what other analogy can be found in the penal code of this country, for the definition and punishment of crimes against this anomalous character?

Let me not be supposed to maintain or to admit that the state, as constituted by custom only, is in right principle legitimate, or consistent with that constitutional effect which the laws of England ought to have in our colonies. I do not even hold such Acts of Assembly as have introduced

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\* See Chap. I.

inhuman aggravations of slavery, distinguishing this state from English villeinage, to be rightful or valid laws. I think, on the contrary, that those bodies, in making them, clearly exceeded the bounds of their legislative jurisdiction. But let it be remembered that I am delineating the slave law as it is practically recognized and administered in the colonial courts; and in reasoning here as to the effect of the criminal law of England, I am assuming that the state, as constituted by Acts of Assembly, or by custom, is legitimate; and am considering only how far, *consistently with that assumption*, the rules of our law are applicable to the protection of the slaves.

To make my views more clearly understood by an example, I am of opinion that the murder of a slave was a capital felony in sound legal principle, not only where the customary slave law had made it otherwise, but in Barbadoes and St. Vincent, where it had been expressly reduced by Acts of Assembly to a mere trespass or trivial misdemeanour, the subject of a petty fine; for I think that legislative bodies, constituted by authority of the British crown, even if they had not been expressly restrained by the royal charters or grants from any wider departure from English law than local circumstances rendered necessary, had no power thus foully to abrogate the law of God and nature, as well as the common law of England; but assuming that these opprobrious acts were valid, the question is, whether the criminal law of the mother country thus violently superseded in the extreme case of murder, nevertheless retained its force in that of a common assault.

If the English law, as in force in the colonies, has sanctioned such a state as that of the enslaved negro, it must deal with him accordingly. He is regarded, both by the usages and by the positive law of the colonies, as a subject of property, and therefore the English law may be and is resorted to, for the decision of such questions of proprietary rights respecting him, arising between his owner and others, as the colonial law has not specifically provided for. As a chattel, he is indeed of a species unknown in this country; but so, perhaps, in the annals of our judicial proceedings, is a camel; and yet if English law were to be transferred to

Egypt, there would be no difficulty in deciding there the property of camels: but if the Huynhymns were to adopt our law, saving their own quadruped laws and customs, rights and privileges, I do not see how an English lawyer could determine whether any indictment would lie against a stranger-horse, for the assault and battery of a yahoo. . If on reference to their own written code, he found a "*wanton* kicking," or a "*cruel* kicking," of those despised bipeds, newly prohibited under slight penalties in particular districts, and the killing them plainly tolerated in others, it would, I conceive, be rash to hold that a mere kick was indictable; but if, on looking further, he found it expressly recited as a principle of their law, that the yahoos must be kept in subordination to the huynhymns at large, and that even self-defence against these superiors, was a capital crime \*, it would be still less warrantable to apply to those degraded beings, the rules of a law which was made for the protection of independent persons from the violence or injustice of their equals.

Among the many difficulties which the respectable witnesses whose assertions I am here combating have left us to encounter, the following may be reasonably proposed. If the criminal law of England is in force as between slaves and strangers of free condition in some cases, why not in others? and if in some of our islands, why not in all? Again, how happens it that if indictments at common law can be maintained for small personal injuries, they are not allowed for the greatest? upon what principle is it, that the life and limbs of the slave are not protected by the common law of

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\* "And whereas it is absolutely necessary, that the slaves in this island should be kept in due obedience to their owners, *and in due subordination to the white people in general!*" (Last Consolidation Act of Jamaica, Sect. 46.)

"And be it further enacted, that if any slave shall assault, or offer violence by striking or otherwise, to or towards any white people, or persons of free condition, such slave, upon due and proper proof, shall upon conviction be punished with death, transportation, or confinement to hard labour for life, or a limited time, or such other punishment as the court shall think proper to inflict, provided such assault or violence be not by command of his or her owner, overseers, &c. or in the lawful defence of *their owner's* person or goods." (Id. Sect. 47.)

England, while the benefit of that law extends to him in the case of an ordinary beating or assault?

Should it be said that its exclusion in the former case is by implication, from certain colonial acts having punished murder and mutilation only by fines, it would, to be sure, be a strange inconsistency in the construction of those laws, to hold, as Chief Justice Ottley correctly did, that they have excluded the common law of England by implication, in enormities like these, and yet to maintain that they have left it in full force, as to the lowest degrees of personal violence, which murder and mutilation include: in other words, that if I assault and beat another man's negro, I may be fined and imprisoned, at the discretion of the court; but if I beat him to death, or deprive him of any of his members, the punishment is a small fine alone.

But the basis even of this preposterous construction would be wanting; because murder and mutilation of a slave have been held to be wholly disipunishable by the criminal law, in colonies where no Act of Assembly had furnished any rule express or implied on the subject; and this in the case of strangers, as well as in that of the master.\*

It might further be demanded, if the English common law was always applicable to an ordinary battery by strangers, what did the assemblies mean in their late meliorating laws by limiting, as they all have done, within narrow bounds, the discretion of the courts, as to the measure of fine and imprisonment on conviction, for such offenders; and that in cases, not of simple battery, but of such batteries as are anxiously defined by highly aggravatory descriptions—nay, even in cases of wounding, mutilation, and torture?† These acts

\* See the recital in the Act of Antigua, *supra*, page 23, note (F.)

† There was no colonial act on the subject in Dominica, prior to December 1788, and yet when the legislature, professing to act on principles of "justice and humanity," and to give legal protection to slaves, passed the meliorating act of that date, a clause was thought necessary to make the *murder* of them felony; and to make the "*maiming, defacing, mutilating, or cruelly torturing*," of them a misdemeanor, punishable by imprisonment not exceeding three months, or a fine not exceeding 100*l.* currency, and this expressly in the case of such offences by *strangers*, as well as the master: "And whereas it is just and proper that the slaves should be protected in their persons, from the violence and inhumanity

profess to improve the situation of the slaves; and to create or enlarge in their favour the protecting power of the laws; but on the hypothesis I am combating, such enactments were in direct opposition to the principle of the acts in which they are contained; and it was a palpable fraud upon parliament, to represent these new laws as improvements.

Perhaps my readers in general, and more especially such as are professionally lawyers, may think I am here mis-spending their time, by a too anxious refutation of pretences which are self-contradictory, and plainly irreconcileable with the admitted facts of the case.

I might otherwise go on to show, as I had done in the printed but unpublished impression of this work, that the pretence of legal protection against strangers by indictment, was nowhere supported by any records of conviction, such as every island would have copiously furnished if the representation had been true. From one or two only of our colonies, had extracts of records alleged to afford such evidence been brought, and by a review of these, imperfect and mutilated as they were, it was easy to demonstrate that instead of supporting the pretence in question, they proved it to be groundless. But this review unavoidably ran to considerable length, and as the point it went to establish seems to be now clearly deducible from meliorating acts passed in almost every island since the pretences I have been combating were made, I will not reprint that part of my work unless future controversy should call for it.

Resting on the arguments already used, I confidently submit to the reader, that the protection of slaves against strangers by indictment, or other criminal proceedings, is not less narrow and inadequate in point of law, than their protection by the civil suits of the master; while both in point of practice are scarcely more than nominal.

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“ of such white persons and free persons of colour who may *have no lawful authority over them*, or who may exert such authority in an *unjustifiable or cruel manner*.” Such is the preamble. (See the act in the Appendix to the Privy Coun. Report, Sect. 19. and 20.)

## SECTION V.

THERE ARE MANY SPECIES OF WRONGS, FOR WHICH IT IS NOT PRETENDED THAT A SLAVE, WHEN INJURED BY A FREE STRANGER, CAN HAVE ANY LEGAL REDRESS.

IT has been seen to what descriptions of wrongs the protection which has been alleged on the part of the colonies exclusively relates.

The assertions which I have been obliged to refute, were of the most comprehensive and unqualified kind. It was alleged, that by means of the master's action, and of criminal prosecutions, the slave derives full and sufficient legal protection; protection against "*injustice*" as well as "*violence*;" and the legislators of the West Indies professed great self-complacency in a review of their laws, in finding "*that they afforded AMPLE PROTECTION to slaves.*"\* Yet among all the various wrongs which man can offer to man, without violence to the body, not one is shewn ever to have been the subject of an action or prosecution, on behalf of any of these unfortunate beings, in any part of the West Indies. Such a case is not even alleged by any witness, or by any writer: and as often as the assemblies, their agents, or partizans, condescend to specify the cases by which their general pretences of legal protection are exemplified, we find that murder, dismemberment or "*cruelty*," or other terms denoting corporal inflictions, are the descriptions to which they resort.

If better proof be required of the negative proposition, that in no other case of injury, with the trivial exception to be immediately noticed, is there, in fact or in pretence, any remedy for the slave, or any punishment for his free oppressor, I must refer to the printed laws of the islands, including their meliorating acts, and to the remarks which have already been offered as to the pretences of legal protection in general, and the evidence on which they stand.

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\* See pages 133 and 142, &c.

The only exception which can be alleged, is a wrong for which, as far as civil reparation extends, there is theoretically and indirectly, as I have admitted, a remedy in the master's right of action, the privation of such property as a slave may be allowed to enjoy: and this exception has been extended a little further by criminal law; in a way, however, that will be found strongly to confirm, instead of shaking, my general proposition.

The frequency of robberies, committed by the lower class of white persons upon slaves, is a fact recorded by one of the colonial assemblies, and one of the governors \*, and is notorious in every island; and if in any case, the law had given to these poor beings effectual protection, we might naturally have expected to find it in the case of a wrong like this;

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\* The Assembly of St. Christopher, in a report of its alleged improvements in the slave laws of that island, dated in 1797, says, "The legislature has likewise shewn a marked attention to the rights of the negroes, by passing an Act for preventing white or free persons from beating or ill-treating them, or taking away from them any of their property. It was the practice of some of the lower class of white persons to beat and ill-treat the negroes, and frequently to take from them any articles that they carried to town for sale; upon the presumption, that as the slave could not produce sufficient testimony, it was impossible that he could obtain any remedy, &c." The report goes on to refer to an act I shall presently notice. — (*See Papers of 1804, Ho. Com. title Leeward Islands, H. 6 & 19.*)

Sir William Young, when governor of Tobago, though a West India planter, and a most zealous apologist of slavery, in his official report of 1811, stated the prevalence of similar practices in that island. "The slaves," he says, "coming from distant plantations to the market of Scarborough (the chief town) with poultry, pigs, corn, and fruit, for sale, were often defrauded in weight or measure, or their goods were forced from them at a less price than they asked, or they were robbed of the whole by some miscreant, white people, or mulatto house-keeper, with impunity; slaves not being admitted to give evidence of the wrong they had suffered from a person who was free."

Sir William represented that an act, passed under his own government, had put a stop to these abuses. (*Papers of July, 1815. Ho. Com. 177.*) I cannot find the act referred to in the parliamentary papers, but believe its provisions are similar to those of the other acts on this subject; and if so, Sir William must have been far too sanguine in his estimate of their efficacy: nor do I know how to reconcile it with what I shall soon have to quote from the same authority, as to the utter inefficacy of all laws for the protection of slaves while their evidence is rejected.

because the slave's property being regarded as belonging to the master, to take it forcibly away, *animo furandi*, seems clearly to be felony, without any regard even to the wrong sustained by the slave. But the customary law of the islands, consistent in its injustice and cruelty to the unhappy negroes, at the expense of consistency in every other principle, has denied to the slave in this case an incidental benefit, that ought to result from that harsh rule by which it deprives him of one of the first rights of social man, the right of acquiring property. The little peculium which he is suffered to possess, is the master's in point of law for every other purpose; but not for that of being defended by the criminal code against robbers with white faces. Accordingly, some of the insular legislatures, when framing their meliorating laws, thought it a great advance in humanity or justice, to subject free persons, who should basely rob these helpless fellow creatures of their little hard-earned property, to a discretionary fine, which they declared should in no case exceed 10*l.* currency.\*

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\* Meliorating Act of the Leeward Islands, passed in 1798, Sect. 14. Papers of 1804, Ho. Com. tit. Leeward Islands, H. 19., being to the same effect with the act referred to in the last cited Report of the St. Christopher Assembly.

The description of the ordinary modes and circumstances of these felonies (for such, notwithstanding their tender treatment by colonial law, I take leave to call them) given by this act of all the Leeward Islands, may be instructive to those who have never lived in the West Indies.

" If any white or free coloured person, &c. shall take away, or cause to be taken away from any slave, any article or thing whatsoever, for which such slave shall produce a ticket or note from his or her owner or director, authorizing him or her to sell or possess such article or thing; or shall take away, or cause to be taken away from any slave, any stock, vegetables, provisions, grass-tops, vowra, or any article or thing which such slave shall be authorized by any present or future existing laws, usages, or customs of the island wherein he resides, to sell or possess; or shall, after purchasing from any such slave any of the articles or things aforesaid, refuse or omit to pay him or her the price agreed upon for the same, or shall knock off from the head of, or pull away from any slave into the dirt or street, or trample on the ground, or scatter about upon it, any such articles or things as aforesaid," &c.

The act goes on to provide a miserable palliative for the ordinary defect of evidence in such cases, by obliging the offender, on a complaint made by the owner of the slave, to purge himself on oath. But let it not be supposed that it is on account of that new mode of proceeding, that the

The only other instance of punishment or redress for any injury to a slave by a stranger, not consisting of violence to the person, that was ever held out by the laws of our islands, is no longer an existing pretence. It was in the case of adultery with the wife of a slave; against which injury some curious provisions were inserted among the enactments of the first meliorating acts of Dominica and Grenada. But these have, in the existing acts of those islands, been prudently omitted \*,

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punishment is made so slight; for if the offender "shall be otherwise "convicted" the penalty is the same.

The Meliorating Act of Dominica, without any such special provision for the conviction of the offenders, imposes a penalty not exceeding 50*l.* current money for the same offence.—(Same printed Papers, title Dominica, E. 15.)

It is just to remark, that from the elaborate, though impotent provision made by the act of the Leeward Islands for supplying the common defects of evidence, its authors plainly desired to check the wicked and detestable practice in question, if possible. Nor is there any reason to doubt that the colonial assemblies in general would have the same disposition; for every master must regard these robberies as dangerous to his own property, as well as injurious and disheartening to his negroes. But to treat the robbery of a negro slave by a white man as a *felony*, is more than the temper of a West India community would bear from its own Assembly.

\* "And in order to protect the domestic and connubial happiness of slaves :—Be it, and it is hereby further enacted and ordained by the authority aforesaid, that any white person, or free person of colour whatever, who shall take away and cohabit with the wife or wives of any slave or slaves in this island, shall, on conviction thereof before any three or more magistrates, be subject to a fine not exceeding the sum of 50*l.* to be recovered and appropriated in manner and form as is directed by the first clause of this act," i. e. to be paid into the treasury, for the public uses of the island. (First Meliorating Act of Dominica, passed in Dec. 1788, Sec. 22. See P. C. Rep. Part III. tit. Dominica. Appendix.)

I am insensibly anticipating in some measure the subject of a future chapter, by pointing out, in my way, the insincerity and futility of these meliorating laws; but it may save the reader's time to offer such brief remarks as particularly apply to the passages which I have occasion to cite, and thereby avoid a recurrence to them hereafter.

The looseness of the above section, in constituting a new subject of criminal jurisdiction, might be enough to satisfy a lawyer, independently of General Prevost's authority, that its authors were not in earnest. But if we refer to the same Report, Part III. tit. Dominica, A. N. 14, we shall find cause to wonder at the confidence of those who attempted to pass upon the Privy Council and Parliament so gross a piece

and the connubial rights of these poor men, whose licentiousness of manners their oppressors have the effrontery to allege

of mummery as this for a measure of humane reformation ; for we shall find there, from the several witnesses examined on the part of this island, as to the nuptials or cohabitation of slaves, that there were no legal marriages among them.

Mr. Robinson.—“ *No solemn legal marriages* — the parties agree to live “ together,” &c.

Mr. Laing.—“ *The slaves never marry.* The males and females live “ together as long as they agree, and no longer,” &c.

Messrs. Gillon, Bruce, and Fraser.—“ The slaves that are Roman “ Catholics are sometimes married by the French Roman Catholic priests ; “ but not often : and there is no particular regulation or law respecting “ their marriages.”

Messrs. Dubocq, and various other French planters of the island.—“ Peu de nègres se marient en face de l'église ; leur mariage est plutôt une “ association. Un nègre choisit une compagne, avec laquelle il habite ; ils “ travaillent leur lot de terre ensemble, et ont soin de leurs enfans,” &c.

Now, either the Assembly meant to protect that species of marriage which really existed among the slaves, though not solemnized according to existing laws, or else this specious reformation was a solemn mockery ; for how could a man be convicted for seducing a slave's “ wife,” *so nomine*, when there is only a customary, not a lawful marriage, unless this special construction of the term “ wife,” had been expressly directed to be made ?

The legislature of Dominica, when lately reminded that their act had expired before the abolition controversy was finally ended, did wisely, in reviving the phantom, to omit this clause as to adultery.

The Council and Assembly of Grenada went to work on this subject in a way more elaborate and refined.

In the first edition of their famous Meliorating Act, passed at the critical period of November, 1788, they recited, among other “ effectual “ means” of mitigating slavery and promoting population, which it was their intention to employ, the intent of “ inducing the slaves to enter “ into regular marriage, and, when married, protecting them in their “ conjugal rights ;” and accordingly the act contained various plausible provisions for these purposes. The clergy were required to solemnise marriages between these poor people without fee or reward, and to attend periodically on the plantations, to perform these and other religious functions.

Then followed three distinct sections to punish adultery : first; if committed by the master, by a fine of no less than 165l. :—next, if the act of the attorney, manager, overseer, book-keeper, tradesmen (i. e. free artificers employed on the plantation), or other free person, by a forfeiture, if the offender was employed on the estate, of half a year's salary, if a stranger, of 50l. :—lastly, if a slave were the adulterer, he was to receive

as one cause of their decrease in native population, are every where violated with impunity.\*

West Indians, I am aware, will think, that in noticing this case as one of the defects in their slave laws, I am taking an unfair advantage of the prejudices of European readers. The notion of an action, or other redress, for seducing or taking away the wife of a slave, appeared in most of the islands, too preposterous even to have a place in their ostensible legislation; and those who at first sported with the ridiculous idea, have, as I have shewn, upon second thoughts rejected it. The absence of those religious solemnities which, through their

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such corporal punishment, not extending to life or limb, as a justice of peace might adjudge. (See this Act, as annexed to the Privy Council Report, Part III. Digest of Laws, tit. Grenada, &c. Sec. 8, 9, 10, 11.)

This act also was suffered to expire as soon as it was thought to be *functus officio*, by the parliamentary defeat of the abolitionists in 1792; but on a new call for reformation, which will hereafter be particularly noticed, this meliorating law; the only pretence of legal protection to slaves in that island, was hastily resuscitated in November, 1797, with some amendments: and among these, *all the above mentioned clauses as to marriage, together with so much of the preamble as leads to them, were wholly omitted, without the substitution of any other provisions whatever on the same subject.* (See this last Act. Papers of 1804, Ho. Com. Tit. Grenada, F. 7.)

If the former act had in any respect been carried into execution, it would not, I admit, be difficult to surmise reasons enough that might prevent the re-enactment of such inconvenient clauses, by an Assembly and Council of West India planters. But as these meliorating laws have notoriously, and almost universally, been, their operation in England excepted, a mere dead letter, I can account for this seeming retrogression in morals only in the way already suggested. The *hoax* was thought rather to have too much of the broad burlesque, even for European ignorance and credulity.

\* One of the best informed, and by far the most candid, of the witnesses connected with, or resident in the colonies, Chief Justice Ottley, of St. Vincent, was asked—" Is the slave often married or attached to one woman " as his wife? He answered—" In St. Vincent's the slave is never married according to the rites of the church; but they are very frequently attached to one woman." It was enquired—" If so attached, is that woman or wife liable to be taken or debauched from him by a white person, and do such cases happen?" He replied—" *I know of no law to prevent it*, but I do not recollect cases of the kind ever happening: they may have happened without my knowledge." (Evidence of 1791, Ho. Com. 163, 164.)—Certainly they might have happened to any extent without his *judicial* knowledge, for the reason he himself assigns.

own shameful neglect, the slaves are not instructed to understand or value, and of which for the most part they are unable to procure the sanction, may seem to the colonial legislators a sufficient excuse for withholding in this case the protection of the law. \*

But, by their leaves, I must regard the voluntary and exclusive cohabitation of one man with one woman, where neither law nor custom has provided any nuptial solemnity, as constituting a marriage union, which it is by the law of God adultery to violate, and which the law of man ought in justice to protect.

The truth is, that the degraded and despised state of the colonial slave, much more than the unhallowed nature of his nuptials, has produced an insensibility in this, as in other cases, to his feelings and his wrongs; but surely the degradation of character which despotism has impressed upon its victims, can furnish no apology for the impunity of those who would further corrupt and oppress them.

How shocking is it to reflect, that we have purity as well as humanity to learn in this instance from semi-barbarous ages; and even from those who were the worst oppressors of their fellow creatures in the ancient world !!

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\* " And whereas the marriage of slaves *cannot give any particular rights either to the contracting parties or their children*, and it being unnecessary and even improper to enforce the celebration of any religious rites among the slaves, in order to sanctify contracts, the faithful performance of which can be looked for only by a regular improvement in religion, morality, and civilization," &c. (Meliorating Act of the Leeward Islands of 1798, Sec. 22. Papers of 1804. Ho. Com. 21. H.)

How uniformly does oppression justify its particular, by the effects of its more general abuses! Under a specious regard to the sanctity of the marriage rites, these legislators not only wholly decline their use, but, while they impotently recommend to the planters to encourage exclusive cohabitation, they deny to this less sanctified union the protection of the law.

The excuse, however, fails even in point of fact; for many negroes in the Leeward Islands are, and at this period were, well instructed by the Moravian and Methodist missionaries in the general principles of religion. That the marriage union, though considered as a civil contract alone, ought to be guarded from violation, seems never to have entered into the thoughts of the Council and Assembly of the Leeward Islands; though a more liberal legislature was never constituted in the British West Indies.

The Roman legislators might have set up the same excuse that has been suggested by some of our colonial assemblies, for not directly protecting the conjugal rights of their slaves; since they did not regard the union of a male and female slave as a legitimate marriage, refusing to it even that honourable title *connubium* or *nuptiae*, and calling it by the degrading name *contubernium*, which signified merely a vulgar and impure co-habitation.\* It was even thought preposterous, as appears from a prologue prefixed to a play of Plautus, to suppose that slaves could be married.†

Consistently with these notions, the seduction of a slave's wife, or female companion, was not regarded as adultery, so as to be within the penalties of the Julian law: yet the morals of this unfortunate class were not disregarded, as they are in our Christian colonies, nor did the seducer of a Roman slave of either sex escape with impunity; since the master was entitled to an action against the wrongdoer; and in odium of such offences, it seems that even a plurality of remedies was allowed.‡

Among the less civilized nations in the middle ages, the connubial rights of bondmen, and the chastity of female slaves, were in general more liberally and more directly protected.

The Anglo Saxon and Scottish laws gave reparation to the

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\* Cod. lib. V. Tit. 5. Sec. 5., &c.

† “ Quæso hercle quid istuc est ! serviles nuptiae !  
“ Servine uxorem ducent, aut poscent sibi ?  
“ Novum attulerunt, quod fit nusquam gentium.”

CASINA. PROLOG.

It is added,

“ At ego aio, hoc fieri in Græcia et Karthagine,  
“ Et hic in nostra terra, etiam in Apulia,  
“ Majoreque opera ibi serviles nuptiae  
“ Quam liberales, etiam curari solent.”

But the statement is thought by some critics not seriously meant.

‡ “ Inter liberas tantum personas adulterium stuprumve passas lex Julia locum habet; quod autem ad servas pertinet, et legis Aquilæ actio facile tenebit, et injuriarum quoque competit: nec erit deneganda prætoria quoque actio, de servo corrupto; nec propter plures actiones, parendum erit in hujusmodi criminis reo.” Digest. Lib. 48. Tit. 5. Sec. 6., ad Leg. Jul. de Adult. See also Dig. Lib. 47. Tit. 10. Sec. 24, 25, de Injuriis, &c.

injured husband; and when the master was the adulterer, enfranchisement was the compensation on the one side, and the punishment on the other. \*

The law of the Lombards went still further, by giving freedom also to the wife, whose offence was probably ascribed to the irresistible influence of the master. †

As to the English villein, I find no mention of his having had any remedy in this case against the lord: but against every other person, his right of action has been already shewn to have been in all cases clear, and unimpaired by his servile condition.

In what way the marital rights of slaves are protected in the Spanish and Portuguese colonies, I have not learnt; but the negroes are certainly there enabled and encouraged to enter into the married state with the same solemnities as attend the nuptials of free persons; and even the French colonists might in this instance, as in many others, have reproached their British neighbours with comparative insensibility and irreligion. The *Code Noir* provided for the marriage of slaves; and in this point met with some, though certainly a very partial, obedience from their masters. ‡ Whether the seduction

\* *Potgiesserus, Lib. iii. Cap. 17. Sec. 2. Reg. Majest. Lib. ii. Cap. 12. Leges Æthelbirthi apud Wilkins.* † *Potgies. ub. sup.*

‡ A great majority of the French planters opposed this law as to the marriage of their slaves. Indeed, it is a fact, attested by all experience, and well worth the attention of British ministers, that in the foreign West India colonies, as well as our own, every improvement, moral or physical, in the condition of the slaves, has originated in the laws of the mother country, and has been pertinaciously opposed by the white colonists; and the constant pleas for their opposition are, that their rights of property are invaded, and insurrections likely to be produced. In this instance, the reason upon which some French writers coolly explain, and others defend such conduct, is, that the *marriage of a slave abridges the power of alienation by the master*; for, by the same code, the husband cannot be separated by sale from the wife or children. (Charlevoix *Hist. de St. Doming.* Tome iv. Liv. 12. p. 368. 371. *Annales du Conseil Souverain de la Martinique, Tome i. p. 257.*) The latter work was written in 1786, and the author says, “*L'ordonnance de 1685 (Code Noir) prescrit des règles pour “le mariage des esclaves; mais c'est encore une question, si l'on doit faire “riser ces sortes de mariages.* Pluieurs habitants sont pour la négative sous “le prétexte que cette méthode leur ôte la faculté de diviser leurs sujets, et “nuit en quelque sorte à leur droit de propriété. Quant à moi, je n'hésite

of a slave's wife by a free person, was the subject of any suit or prosecution, I am uninformed; but it appears from a case reported by the juridical historian of Martinique, that the rights of the husband were recognized, and very strictly vindicated, by the laws, at least against his fellow slaves; for the husband of a negress having, in the transport of his indignation, killed a negro whom he caught in the act of violating his conjugal rights, was acquitted by the supreme court of that island, and the adulteress was by the same sentence punished with thirty lashes. \*

The privation of the right of property, and of the power of contracting, greatly reduces the catalogue of illegal injuries to which the negro slave is exposed, and consequently that of the shameful defects in the colonial code in regard to his legal redress. But he is, notwithstanding, liable to

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“ pas à décider qu'on ne sauroit trop favoriser les mariages entre les esclaves. “ J'ai devant les yeux plusieurs exemples de gens qui marient presque tous “ les negres de leur habitation, et qui ont par ce moyen, une pépinière de “ negres creoles, et une grande quantité de negrillons, qui les mettront à “ même de se passer de ceux de la côte d'Afrique, dont l'espèce commence “ à devenir plus rare.”

Another French colonist, M. Hilliard d'Auberteuil, who wrote in 1777 on the state of St. Domingo, finds fault with the Jesuits, who undertook to marry the slaves in that island according to the directions of the Code Noir; and the reader shall see his reasons; especially as there must be some curiosity to learn in what way the French colonists made out that the religious solemnization of marriages among their slaves was not only injurious to their proprietary rights, but *calculated to produce insubordination, conspiracies, and insurrections*. It may seem that such consequences of the nuptial blessing are almost as strange as that the registration of slaves, and the forming a genealogical record of their servile offspring, should be regarded by them as an immediate emancipation; or that to teach them Christianity should excite them to rebellion and massacre. But M. D'Auberteuil shall speak for himself:

“ En execution de l'edit de 1682, les missionnaires Jesuites avoient entre-  
“ pris de marier légitimement tous les nègres esclaves; mais cette méthode  
“ qui étoit du maître la faculté de diviser ses esclaves, nuisait au droit de pro-  
“ priété et à la soumission nécessaire. Un mauvais nègre corrompait une  
“ famille, cette famille tout l'atelier, et la conspiration de deux ou trois  
“ familles pouvoit détruire les plus grandes habitations, y porter l'incendie,  
“ le poison, la révolte.” (Considerations sur la Colonie de S. Domingue,  
Tome ii. p. 67, 68.)

\* Annales des Souver. Cons. de la Martin. Tome i. p. 336.

many remediless wrongs, through the injustice of those who possess no private authority over him. He may, for instance, be the victim of the most cruel defamation; may be arrested and imprisoned without any justifiable cause; may be prosecuted maliciously, and have his life brought into danger, by the most groundless accusations; and, in short, with the exceptions already noticed, may sustain all the oppression which the injustice and malignity of the wicked, can inflict upon the innocent and helpless, and yet have no right whatever to any reparation by law.\*

#### SECTION VI.

**THE TESTIMONY OF SLAVES IS NOT ADMISSIBLE IN ANY CAUSE, CIVIL OR CRIMINAL, AGAINST A WHITE PERSON; THOUGH THIS CONFESSEDLY SUFFICES TO DEPRIVE THEM OF THE BENEFIT OF THE LAWS BY WHICH THEY ARE IN A FEW CASES OSTENSIBLY PROTECTED, INDEPENDENTLY OF ALL OTHER OBSTACLES, TO THE EXECUTION OF SUCH LAWS.**

WE have now seen from how few of the many wrongs to which man in a state of society is exposed, these unfortunate bond-men are entitled, even in theory, to any protection from the law.

When the rule itself is so grossly defective, the difficulties attending its execution, may seem of little moment; and their importance is certainly not very great to the enslaved negro, as the law at present stands: for even the fullest protection of a man's life and limbs, would be no very valuable boon from society, when, in respect of almost every thing else that makes life tolerable, he is left totally defenceless.

I will not, therefore, detain the reader with remarks on

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\* It would be almost endless to shew in all points the difference between this terrible and unprecedented slavery, and that of other ages and countries; but I refer to what has been already said, as to the protection of the Roman slaves, against libels and other injuries of this class; and also as to the law of villeinage, in regard to malicious prosecutions.

If any reader doubts whether the negroes in our colonies are practically exposed to suffer by false and malicious accusations, as well as by more private modes of oppression, I may refer him to Dr. Pinckard's Notes on the West Indies, especially to an anecdote in Vol. II. Chap. 17, and another in Vol. I. p. 396 to 399.

the proverbial laxity in the execution of all penal laws in our islands against white offenders, on the radical unfitness of that excellent model which they have copied, the jurisprudence of England, for the government of a minute society, or on its still greater unfitness for a country in which private slavery prevails: I will only observe, that obstacles which are notoriously found to obstruct the course of public justice, and often to make the laws impotent, between the members of the white aristocracy of a West India island themselves, must obviously be far more insuperable by a prosecutor, when they tend to screen a member of that small and much privileged body, sued or prosecuted on behalf of one of the abject cast, a despicable bondman.

But in declining these topics, which belong not exclusively to the slave code, I solicit the reader's particular attention to one fatal obstacle which decisively opposes the execution of all laws for the protection of slaves, "the universal rejection of their testimony against persons of the privileged class;" because if a better order of things should now arise, and the most humane and liberal laws be made in their favour, all would be utterly fruitless so long as this rule prevails.

Here there is happily no controversy to encounter, either as to the rule of law, or its pernicious and iniquitous effects.—No other cause could be assigned by the colonial assemblies or agents, to excuse the impunity of those shocking crimes which some of them acknowledged to exist, and in general to pass unpunished: and it was no doubt felt, even by those who were the boldest in affirming the justice and humanity of their slave laws, that some apology would be wanted for the absence of the proper evidence to shew their practical effect: the inadmissibility of the testimony of slaves against white persons, was therefore not only confessed, but relied upon, in order to account for the non-existence of any records of convictions under the alleged laws in most colonies, and their extreme rarity in all.\*

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\* See the answer of the Council and Assembly of Grenada, *supra*, p. 20, to which let me now add some other authorities to the same effect, on whose candour there is no such drawback; and first the very candid and comprehensive testimony of Mr. Chief Justice Ottley, of St. Vincent.

This universal maxim of the British West India slave codes seems to have been the more freely brought to light,

“ The old slave acts, which were the general laws throughout the islands, “ calculated for the regulation and government of slaves, and which still “ continue unrepealed in many of the islands, always appeared to me to “ be in many instances very unjust and inhuman, as respecting the personal “ security of slaves : the only instances in which their persons appear to be “ protected by the letter of the law, are in cases of murder, dismember- “ ment, and mutilation : *and in these cases, as the evidence of slaves is never “ admitted against white men, the difficulty of legally establishing the facts “ is so great, that white men are in a manner put beyond the reach of the “ law.*” (Evid. of 1791. Ho. Com. 158-9.)

Mr. Wylly, the Attorney General of the Bahamas, in his evidence before the Assembly of that colony, though given under the extreme danger of a persecution of which he was soon after the victim, pretty intelligibly states the same consequence of the rule in respect even of the boasted meliorating laws.

“ In the examinant’s opinion the *consolidated slave act is little better than “ waste paper*, owing to its not containing within itself the means of carrying its provisions into effect.”

Yet he afterwards adds, “ that, when offences against that act have been “ brought to light they have always invariably been the subject of a prosecu- “ cution, *if evidence could be obtained to maintain one.*” (Report of the “ Bahama Assembly of 1815, before referred to, p. 49, 50.)

That Mr. Wylly prosecuted in all proper cases when he could find evidence I have no doubt; but that from the effect of the rule in question he very rarely, or never, was able to convict, is clear; or he would not have called the act waste paper.

Sir William Young, notwithstanding all his zeal in the cause of the colonies and of slavery, spoke still more explicitly, and in a way so decisive as may well justify my abstaining from further citations on this subject.

“ I mean only to aver that those excesses of ill conduct to slaves on the “ plantations have not occurred within my knowledge. Instances of bad “ treatment and cruelty, and of unjust and immoderate punishments of “ slaves, I think occur exclusively within the narrow trading or household “ circles of unattached slaves; and I am sorry to say have frequently been “ reported to me with circumstances of atrocity to be believed, though (for “ reasons I shall give) not to be proved, against lower white or coloured “ people domineering over from two to ten or more wretched beings, their “ slaves. In such cases, what protection by law have the slaves against the “ abuse of power over them by the Europeans or other free people? *I “ think the slaves have by law no protection.* In this, and I doubt not in “ every other island, there are laws for the protection of slaves, and good “ ones; but circumstances in the administration of whatever law render it “ it a dead letter.

“ When the intervention of the law is most required, it will have the “ least effect; as in cases where a vindictive and cruel master has care to

by some of the colonists, because they supposed it to be a defect which necessarily arose from the condition of slavery in general; and which consequently no man, without directly attacking the institution itself, could condemn.

The Grenada Council and Assembly distinctly avowed that opinion:—“The danger, “they observed” of admitting the testimony of slaves to affect the life or fortune of a free person “is so obvious, *that such testimony has been uniformly held inadmissible in all countries wherein slavery has been in use.* “Indeed (they added) nothing but the fatal consequence which “would ensue from the admission of it, could prevent the “legislature of this island from adopting some mode (they “apparently mean *that mode*) of facilitating the conviction of persons guilty of a crime so disgraceful to humanity\*,” &c.

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“commit the most atrocious cruelties, even to murder his slave, no “free person being present to witness the act. There appears to me a “radical defect in the administration of justice throughout the West Indies, “in whatever case the wrongs done to a slave are under consideration; or “rather, that justice cannot in truth be administered, controuled as it is by “a law of evidence which covers the most guilty European with impunity, “provided, that when having a criminal intent, he is cautious not to commit the crime in the presence of a free witness.

“On small plantations, there is but one free person, the resident manager, “and no slave can appear against him. In the backyard of a jobber “of a small gang for hire, in the workshops, or out-buildings of each artisan or petty tradesman, and within every house, the greatest cruelties “may be exercised on a slave without a possibility of conviction. I should “consider it as inconsistent with the respect and deference I bear to the “sagacity and wisdom of the august body for whose use this Report is “framed, to idly enlarge it with the enumeration of humane laws for the “protection of slaves, all rendered nugatory by the conditions of evidence “required in their administration.”

Such was the testimony of the late Sir William Young, when Governor of Tobago, in his Report of October 1. 1811, transmitted to the Colonial Secretary of State, to be laid before Parliament as his answer to official enquiries respecting laws for the protection of slaves, made in consequence of a Parliamentary Address. (Papers printed by Order of the House of Commons of July 12. 1815, p. 181-2.)

What can the Assemblies reply to this? And what after this are we to think of Assemblies who tell us that “*the slaves are amply protected by law,*” or of those who load Mr. Wilberforce and others with the most virulent abuse for presuming to assert the contrary?

\* P. C. Rep. Pt. III. tit. Grenada, A. N. 4.

Mr. B. Edwards, in the same spirit, says, “The great and, *I fear, incurable* defect in the system of slavery is the circumstance already mentioned, that the evidence of the slave cannot be admitted against a white person, even in cases of the most atrocious injury.—*This is an evil, to which, on several accounts, I fear no direct and efficacious remedy can be applied.*” \*

Here, then, and in the other evidence I have cited, we have it admitted by the ablest champions of colonial slavery, and by some of the insular assemblies themselves, that there is a great, radical, and lamentable defect in their laws; a defect which gives impunity to the lawless oppressor of the unfortunate negro, even in the most atrocious cases; and in consequence of which prosecutions for crimes, “disgraceful to humanity,” have generally, if not universally proved abortive; that the protecting laws are consequently rendered “nugatory,” and that it would be a disrespectful imposition on parliament to represent them as of any value.

That this fatal defect exists equally in all our colonies, is a fact also admitted, and out of dispute. I earnestly request, therefore, of such readers as have hitherto been deceived by the bold assertions of the assemblies and their advocates, and been led to believe that those specious laws are effectual, to compare these citations with the statements to which they lend their confidence, and then ask themselves what credit is due to the same informants, as to controverted facts of a less public and demonstrable kind.

But let us proceed to examine the arguments by which this harsh rule of evidence is excused.

It is defended, we see, by the Grenada Council and Assembly, both upon precedents and principle; but the soundness of the principle is inferred only from the supposed extent of the precedents; and the assertion, that these are co-extensive with the institution of slavery itself, is grossly erroneous.

The law of England, which these same legislative bodies, their agents, and witnesses, would represent as applicable to the slavery of the West Indies in other cases, is unluckily in this, as in most other points, at variance with their detestable

\* Hist. of West Indies, Vol. IV. Chap. 5. p. 144.

code; for the testimony of English slaves, while such there were in this island, was not rejected.

They were not indeed *legales homines*, and therefore could not be impanelled as jurymen; but they were admissible as witnesses. It appears that they were received as such in some instances, though the lord himself was a party \*; and even in criminal cases, it was no exception to a witness that he was a villein or bondman. †

And here, were we to close with the colonists on their own premises, it might reasonably be demanded, how does this unfortunate rule of yours arise?—by what authority do your courts reject the testimony of slaves? There is not, in most of our islands, any law that expressly precludes such evidence, though its rejection has been universal in practice.

Even the Roman law, from which this terrible system derives most of its oppressive rules, furnishes in this case no perfect, or fairly applicable, precedent. The general rule of that law certainly was, that a slave could not be a witness; though there were exceptions to it, founded in reason and policy, which are wholly unknown to the law of our colonies; for men of that condition might be examined when the welfare of the state, in cases of weight and difficulty, required such a departure from general principle, or when other evidence was unattainable. †

If the last of these exceptions were allowed by our colonial lawgivers, it would in great measure remove the evil of which they complain, or rather, the excuse which they offer for the non-execution of the laws. But they hold no necessity to be so urgent, no object so important, no defect of better evidence so obvious and unavoidable, as to justify the admission of the testimony of slaves. They avow, as we have seen, that men, notoriously and certainly guilty of detestable crimes, are permitted to escape unpunished, through a want of the evidence of free persons; a defect which, from local circumstances,

\* Coke Litt. 122. b. Bro. Abr. Villeinage, 66, &c. Fitzh. Abr. Vill. 38, 39, &c.

† Hawkins's Pleas of the Crown, Book ii. Chap. 46, Sec. 28.

‡ "Servos lex civilis non patitur testes esse, &c. Nisi causa sit ardua, & ad reipublicæ spectans utilitatem; aut aliæ desint probationes." Voet. ad Pandect. Lib. xxii. Tit. 5. Sec. 2.

confessedly occurs in most criminal cases, and is often preconcerted by the offenders themselves.

There was another exception in the Roman law, which I do not wish to see admitted in our colonial courts, and it is perhaps the only bad part of that rigid code which they have not adopted : the evidence of slaves could generally be received when given under the torture.

If the Roman law, however, in general rejected the evidence of slaves, it was upon principles of jurisprudence not adopted by the colonial laws in any other case than this, and not justly applicable to the English methods of administering justice as established in the British West Indies. Regarding the credit of the witness, as being impaired by his servile condition, the Roman lawgivers only applied to him a universal rule of their law of evidence, by which every valid exception to a witness's credit was absolute, and induced the total rejection of his testimony. They did not admit that convenient distinction of English law, which the wisdom of most other modern countries has also adopted, the distinction between a witness's competency, and his credit. They were strangers to our admirable mode of trying disputed facts by jury ; and therefore did not commit to the discretion and integrity of judges, by whom both the fact and the law were to be declared, the delicate and dangerous power of trying the credit of the witnesses, as well as pronouncing on the legal effect of their testimony.

The Roman slave was not placed, in this respect, in a worse situation than freemen of an abject condition in life, or whose occupations were vile and disreputable † ; nor, except in the liability to be examined by torture, was his situation worse than that of many free persons who were regarded with no contempt or disfavour.

A minor under twenty years of age, for instance, could not be a witness ; nor in some cases a woman. The son, or free domestic servant, could not give evidence where the father or master was a party ; nor the father, either for or against the son ; nor brothers, for or against each other. Many other cases might be mentioned, in which that law peremptorily rejected a witness on account of objections which, in an English

• Voet. ubi sup. Sec. 12.

† Ibid. Sec. 11.

court, would at most only diminish his credit, and some which would there have no weight at all. One of them might, if admitted into West India jurisprudence, have very serious effects indeed. A *prodigal* was absolutely incapable of giving evidence in any case whatever, criminal or civil; he was put expressly in this respect on the same footing with a fool and a madman. \*

Since, then, in the English colonies the law of evidence is generally the same, and the mode of trial the same, as in the mother country, their legislatures could clearly have no fair apology for copying the severity of the Roman law in the case of the slave alone, and rejecting in it that distinction between credit and competency, which they admit in every other; yet, in this respect, the insular courts are perfectly inexorable; it is impossible to imagine cases stronger than some in which they have adhered to the general rule, without allowing of any such distinction. †

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\* *Instit. Justin.* Lib. ii. Tit. 10. Sec. 6. *Voet.* Lib. xxii. Tit. 5. Sec. 2, 3, 4, &c.

† “ *Q.* Does any instance, in point of fact, occur to your recollection “ where, in an atrocious case, a person has escaped the punishment of the “ law, owing to negro evidence not being taken ?

“ *A.* Yes: in October, 1798, a negro slave in Tobago was said, and universally believed, to have been stabbed by a white man (I believe the manager of the estate), in the presence of a number of other slaves. The negro died upon the spot, and the white man was tried for the offence: but for want of sufficient evidence, according to the usages and customs established and received in the courts of law in the West Indies, the man was acquitted. Another instance I can mention, which happened in St. Vincent's: a white man was strongly suspected of having shot his brother-in-law, and the fact was alleged by two or three slaves to have been done in their presence: and, according to the best of my recollection, the coroner's inquest confirmed this suspicion, by a verdict of wilful murder against this white man. At a court where I presided, he was tried for this offence; and, though there scarcely remained a doubt with the jury of the man's guilt, from the reports which had gone forth throughout the country before the time of his trial, he was nevertheless acquitted for want of sufficient evidence !

“ *Q.* To what particular usages or customs do you more especially allude ?

“ *A.* To the usage and custom of never receiving the evidence of any slaves against a white man.” *Evid. of Drewry Ottley, Esq. Chief Justice of St. Vincent, 1791.* *Ho. Com.* 170, 171.

It is not necessary, after all, to resort to the servile law of ancient Europe, or to reason from the principles of our own law of evidence and happy mode of trial, in order to overthrow this weak and irrelevant defence of precedent. What the Grenada Legislature asserted never to have existed in any country, and what Mr. Edwards regarded as “impracticable,” was then to be found, and I apprehend still exists, in the slave law even of West India colonies.

It seems to result from the brief and general accounts which we have of the law of the Spanish and Portuguese settlements, though I find it no where expressly noticed, that slaves there are not, in all cases at least, incompetent witnesses. But even in the French Windward Islands, and within the jurisdiction of the Council of Martinique, in which Grenada itself, till it became British, was included \*, the evidence of negro slaves was admitted against all free persons, the master excepted, and that in criminal as well as civil cases, when the testimony of white persons could not be obtained to establish the facts in dispute.

By the *Code Noir*, which, though it contains some humane provisions, was evidently drawn up with a strong leaning towards the Roman maxims of slavery, and under much ignorance of the true state of things in the West Indies, the admission of the evidence of slaves was prohibited generally, both in civil and criminal causes, without any distinction as to the colour or condition of the parties against whom it was offered; but subject to this qualification, that their testimony might be heard by the judge, merely to serve as a suggestion, or unauthenticated information, which might throw light on the evidence of other witnesses, without amounting of itself to any degree whatever of legal proof. † Even this, the reader will observe, is more than is allowed in the English islands.

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\* All the French Windward Islands, till 1763, were under one governor general, who resided at Martinique; and I apprehend they were all subject to the jurisdiction of the sovereign council of that island.

† “En cas qu'ils soient ouys en temoignage leur depositions ne serviront que de memoires pour ayder les juges à s'éclaircir d'ailleurs, sans que l'on en puisse tirer aucune presumption, ni conjecture, ni adminicule de preuve.” (Code Noir, viz. Ordonnance de 1685, Art. 50.)

The Sovereign Council of Martinique, however, differed so much in opinion from our English assemblies, as not to be satisfied with this exclusion of a species of evidence, which they knew to be essentially necessary to the interests of justice and good government. Availing themselves, therefore, of their privilege of registering the royal edicts, and of previously objecting to them when improper, they humbly represented to his Majesty, that great inconveniences would result from the execution of this article of the *Code Noir*, by the impunity of many crimes, which could no otherwise be proved than by the testimony of slaves: and they prayed him to permit that such evidence might be received in all cases in which there should not be sufficient proof by free witnesses.

The king listened to this remonstrance, and by another edict, dated the 13th October, 1686, which was afterwards registered by the council, together with the former, he so far varied the article in question, as to direct, that the testimony of slaves might be received when white witnesses were wanting; except against their masters. \*

Such was the law at Martinique at least, if not in all the other French islands, in 1786, and for a century before; and such I believe it continues to this hour.

Before the promulgation of the *Code Noir*, there seems to have been in those colonies a still wider admission of servile evidence. I find it indeed noticed as an adjudication of the supreme tribunal, in 1665, in the case of the Sieur Renaudot, that in criminal cases the evidence of a single negro should be of no effect against a white person; but the learned compiler remarks, that *testis unus, testis nullus*, is a general maxim of French law, and treats the other ground of the decision as proceeding from ignorance of that rule. †

Supposing, however, that the law of the French Windward Islands was never more liberal in this respect than the rule of the edict of 1686, it sufficiently refutes the assertion of the Grenada Legislature, and gives room for astonishment that such a gross mistake could be committed in an island so

\* *Annales du Conseil Souverain de la Martinique*, Tome i. p. 253, 254.

† *Ibid.* p. 79.

near to, and so recently under the same government with Martinique.

As the defence of precedent fails, let us look at the alleged reason of this rule. It is said to be “obviously dangerous to “the lives and fortunes of free men to admit the testimony of “slaves.”

In one sense this proposition is true; for it appears, on the same authority, and in the same paragraph, that several free men might have been most deservedly hanged, if such testimony had been admitted. The rejection of such evidence, however, is, as the same legislative bodies freely acknowledged, highly dangerous to the lives of men who are not free: and it appears, by the extract from the parliamentary evidence last cited, to be sometimes so to the privileged race themselves.

But can it be seriously supposed, that the lives of *innocent white men* would be in any danger in the *West Indies* from false accusation by *negroes*? The notion is truly extravagant and preposterous.

Who are the jurors that would have to try the credit of such accusers, and give effect to their testimony, but white men, and masters of slaves? And who are the judges, but men of the same description? Can it then be feared, that such courts and juries would fail to make ample allowance for all fair grounds of distrust; or that they would not reject an accusation supported by such evidence alone, if there were any reason whatever to doubt of its truth?

Where, after all, is the mighty danger that slaves would often attempt to raise false accusations against white persons? Dreadful indeed would be the consequences to themselves, should their testimony be disbelieved; and were they impelled by revenge, or any other powerful passion, to desire the death or ruin of a master, or of any other white person, how many far safer and surer paths to their purpose are continually open. The growing crop, on which his credit and subsistence may depend, is for months exposed to the torch of midnight conflagration; and though, among the many cruel calumnies under which these poor oppressed beings labour, they are falsely charged with possessing the art of poisoning, yet means of secret assassination are continually in their power. It is a boast of their oppressors, which is well founded in point of

fact, though made to furnish a most fallacious inference, that they sleep with unfastened doors, in the solitude of the country, and often at the distance of a mile or more from the nearest of their white neighbours. In short, there is no country on earth, in which the revenge of an assassin or incendiary might be more easily or more safely gratified. But the truth is, that all vindictive feelings towards the Whites, are absorbed in that coward dread of the oppressor, which is his great security; and which would still more effectually secure him from open accusation, than from secret vengeance.

Are the pretended apprehensions supposed to point at the danger that a master might influence his slave to commit perjury against other white persons? The objection, I admit, would justly affect, and very strongly too, the credit, if not the competency, of such a witness, when the master is a party, and produces him. It might be right even wholly to exclude the testimony of slaves, when the master has any interest in the cause. They ought never, perhaps, to be heard, but when he himself is no party, and would, if called as a witness, be free from every exception.

But the question here, is not of a rejection of such testimony, when the relation between master and slave might make the admission of it dangerous to public justice, or to the unhappy dependent himself: my opponents have to justify an incapacity to give evidence absolute and universal; an incapacity that has place in suits between free persons, though both should be totally unconnected with the master; and in prosecutions by the crown against defendants to whom he may be a perfect stranger.

Beyond doubt, the abject condition of a slave ought always to detract much from the credit of his testimony; because it affords a general presumption against his moral character, more especially in the article of veracity.\* But how many

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\* This concession, however, must be limited to creole slaves; and to such Africans as have been long enough in the West Indies to have acquired the abject vices which the dreadful slavery of that country rarely fails to generate.

The state improperly called slavery in Africa, is too mild to be chargeable with such consequences: nor am I aware that, by any of the self-interested libellers of the native negro character, a propensity to falsehood has been

instances are there in which the evidence of a witness who is liable in a much higher degree to distrust, is essential to the interests of justice; and may furnish a satisfactory ground of decision, even for the purpose of conviction in capital cases. Often is a necessary link in the chain of circumstantial evidence wanting, which the vilest man on earth might credibly supply; because the other circumstances have previously raised the highest presumption of its truth, and of its being a truth too within the knowledge of that witness. Sometimes also testimony, which is very low in credit, may justly derive great weight from the consideration, that, if untrue, the opposite party possessed the means of refuting it by satisfactory proof, which he has not produced; and sometimes it is satisfactory, because it is strongly corroborated by other evidence, though neither would have separately sufficed.

Some combinations like these must no doubt have existed, and must have been in the contemplation of Chief Justice Ottley, and the Council and Assembly of Grenada, in those cases of abortive prosecutions which I have cited upon their authority; otherwise they could not have affirmed that the parties accused were "unquestionably guilty," when there was no legal evidence to convict them. Under circumstances like these, too, our English courts receive the most suspicious of all testimony, even that of an accomplice who purchases his own impunity by becoming witness for the crown.

Surely then the universality of the disqualification in question cannot be vindicated on the ground of that discredit which may in general attach to the unsupported evidence of a slave. Some better reason must be found for the alarm expressed on this subject, before we can admit that there is such extreme danger of negro evidence being treated with too much respect

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ascribed to it. The following extract from Park sufficiently proves, that the duty of veracity is neither unknown among these poor people nor uncultivated:— "One of the first lessons in which the Mandingo women instruct their children is *the practice of truth*. The reader will perhaps recollect the case of the unhappy mother, whose son was murdered by the Moorish banditti at Funingkedy. Her only consolation in her uttermost distress was the reflection, that the poor boy, in the course of his blameless life, *had never told a lie*." Park's Travels in Africa, Chap.xx. p. 264.

by a West Indian jury. Persons at all acquainted with colonial manners and feelings in regard to the African race, and with the ordinary laxity of police and criminal justice in our islands, would be rather inclined, perhaps, to question the utility, than the safety, of altering the rule in question, with a view to the protection of slaves. From my professional experience in that country, and knowledge of the prejudices that prevail there, I believe it would be a hopeless attempt in general to prosecute a white man for any crime, if there were no other evidence against him than the testimony of slaves, supposing it admissible in point of law, and supposing also that every fair objection to their credit were removed.

Why then, it may perhaps be asked, should the colonial legislatures, even in the day of pretended reformation, so obstinately adhere to this rule of evidence, while they acknowledge its fatal effects?

I answer, in the first place, from that ineffable disdain of the enslaved race, which distinguishes the masters of the West Indies, in the degree at least of that feeling, from all other owners of slaves that ever existed; and which is the only clue to many other seeming difficulties in their system. Were the councils and assemblies disposed to reform their laws, or rather, as Chief Justice Ottley correctly calls them, "the usages" "and customs received in their courts," in this important article, the white mob of our colonies would be enraged against them for the odious innovation.—They would not tamely suffer their own valuable privilege of oppressing negroes with impunity to be so much endangered, nor brook the indignity of seeing a vile slave bear testimony against one of their own exalted class. But the mob would not be the only malcontents. If negro evidence failed to produce convictions, it might at least produce scandal; and it would not be pleasant to the feelings of a planter to have a possibility of a prosecution hanging over his head for any discreditable severities in the government of his gang.

That the rule in question has not really arisen from those views of juridical policy, upon which the colonists have attempted to defend it, is evident, whether we consider its origin, or the extent to which, in several of our oldest colonies, it has been carried, or the exceptions by which, in relation to free

persons not possessing the privilege of a white skin, it has been restrained.

The modern assemblies may attempt to explore, and, as has been seen, may grossly misconceive and misapply, the precedents furnished by the servile codes of other countries; they may also reason, and reason falsely, as to the political consequences of receiving the testimony of slaves; but this rule of customary law seems to have been derived from the first settlers of our oldest colonies, the barbarous Buccaneers, who were too illiterate, and too regardless of legislative theories, to search for precedents, or to be misled by political speculations. They despised the poor negro, however, almost as much as he is now despised by their more polished successors; and therefore disdained to receive his evidence against their own compeers.

The extension of the rule in several of our colonies to *free* witnesses of African extraction, plainly marks the prejudices by which it was there cherished, if not originally conceived, and by which it is still inexorably maintained. A man descended within three degrees from a negro, although his ancestors on both sides should have been free for many generations, could not, till very recently, in Jamaica, be received as a witness in any criminal case against a white person; and the same, if I mistake not, is still the law in some of the British islands.

The rule was established by positive law in the Bahama islands; where it was introduced so recently as 1784, in the following singular terms:—“ Be it enacted, that the oath of “ negroes, mulattoes, mustees, or Indians, shall not be good “ or valid in law against any white person, excepting in mat-“ ters of debt; and then any free negro, mulatto, mustee, or “ Indian Christian, shall be allowed to prove her or his account, “ and sue for the same in any court in these islands where the “ same shall be cognizable.”\*

What the construction of this strange law ought to have been, I presume not to determine. The natural import of the words is so extravagant, that it seems necessary to search for some

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\*. Act of July, 1784. Sect. 22. P. C. Rep. Part III. tit. Bahama Islands, Appendix.

latent sense; for the apparent meaning is, that by a direct inversion of all ordinary rule, and in contempt of every rational principle, these people are to be allowed to be witnesses in their own civil causes, for the recovery of their own debts, and in no other case — that is to say, they are to be believed only when they swear for their own advantage. It would be painful and surprising, if there were not in every West India book of laws so much matter still more revolting, to find the civil destiny of whole orders of men disposed of in so careless and absurd a style of legislation as this.

Without attempting to ascertain whether any less preposterous sense than the obvious one can possibly be found for the qualifying clause in this law, its disabling effect plainly extends at least to all criminal cases in which white persons are defendants; and perhaps it was thought best to attain that convenient object without drawing a too intelligible and express line between criminal and civil suits.

In other colonies, where custom only has disabled free coloured persons from giving evidence against white persons, the disability is admitted to be confined to criminal cases; and this limitation of the rule may be accounted for by a simple principle, which pervades the whole of every colonial code, whether written or unwritten, the maxim of making the interests of the privileged order, the only boundary line to the oppression of the inferior classes: for the free coloured people are so generally employed as book-keepers, and in other clerical and confidential capacities, by merchants and planters, that their inability to give evidence in civil cases, would be highly inconvenient, and might sometimes be ruinous, to their white employers.

The defence which I am combating, if it could excuse the rule in question as to slaves, would still entirely fail as to this extension of the rule, to the testimony of negroes or mulattoes who are free.

Here the authority even of the irrelevant precedents is not, nor can be alleged. With all the strictness of the Roman law of evidence, the freed-man was a competent witness. He might even give evidence of what came to his knowledge before his enfranchisement; which was not allowed to the man of full age, in respect of what he learnt during his non-

age.\* Here also, the pretence of danger to the lives and fortunes of free men from the enmity of slaves, can have no place, for these witnesses are not of servile condition: and their evidence is freely received when the property or fortunes of white men are at stake in civil actions; though in criminal prosecutions against them, it is absolutely rejected.

What then is the fair conclusion?—We have to choose between two possible explanations of the motives of the colonial law-givers, in the framing and pertinaciously maintaining these pernicious rules of evidence; the one resting on a misapprehension of precedents, coupled with a dread of perjury by servile witnesses; the other on a contemptuous antipathy to the African race, and a determination that the crimes of white oppressors shall pass unpunished: but the former hypothesis is found to solve only one half of the phenomena, and the latter satisfactorily explains the whole — which is it most reasonable to adopt?

The restrictions also, as well as the extensions of the rule, are inconsistent with the defence of its authors; for of this “necessary protection to the lives and fortunes of free men,” free men with black or tawny faces are, in some of our colonies, deprived.

By the same act of the Bahamas, which I have last cited, it is enacted, in respect of freed negroes, mulattoes, mestizes, and Indians, “that the evidence of a slave against them, shall be good and valid to all intents and purposes; any law, usage, or custom to the contrary notwithstanding.”†

An act of Barbadoes gives the same rule as to free Indians and mulattoes in general; but with this qualification, that the testimony of the slave must be “supported with very good and sufficient corroborating circumstances.”‡

By an act of Jamaica, passed in 1791, the testimony of slaves was admitted, without reserve, against a certain description of free persons who were peculiarly obnoxious to every danger that can be alleged to arise from such evidence.

\* Voet. ad Pand. Lib. xxii. Tit. 5. Sec. 2.

† Act of 1784, Sect 4.

‡ Act of 1789, No. 180. Sec. 5. See P. C. Rep. Part III. Appendix, tit. Barbadoes.

It subjected the free Maroons, who were then in amity with the British government, to be tried in a summary manner by the courts of the island, and to be hanged, sold as slaves, or transported, on conviction of various offences \*; and it expressly enacted, that the evidence of slaves should in all cases be received against them. † The enslaved negroes, who had often, pursuant to legal requisition and encouragement, been seized and brought home, when fugitives, by these active mountaineers, had certainly here a fair invitation to revenge. Though all the colonies are not chargeable with this latter species of inconsistency, they have all, without exception, admitted the testimony of slaves against each other, and make no scruple of inflicting the pains of death on the unsupported evidence of a single slave.

What shall we say, then, of these Legislative Assemblies? — that they hold the credibility of evidence to depend on the colour of the defendant against whom it is given? or that they wish white criminals to escape, and blacks and mulattoes to be hanged unjustly?

It is impossible to avoid this dilemma, by suggesting any fair objection to the competency, or even to the credit, of servile testimony in the colonies, that does not as strongly apply to it when given against free coloured persons, or even slaves, as to its reception against whites. The presumption of immoral habits in the witness, and the danger of influence from his dependant situation, are obviously the same in all these cases: but the counteracting sense of danger to himself from making a false accusation, is infinitely less in the former cases, than in the latter; and, what is far more important, the free negro or mulatto, or the accused slave, has no se-

\* Several of these are created by the act itself; and not only civil trespasses, but mere thoughts of the heart, are constituted capital or single felonies, *e. g. to entice away or harbour a slave or to persuade him to run away;* subjects the Maroon to be sold and transported for life; *“to compass or imagine the death of any white person,”* is punishable with death: nor do I find, that in the case of these West India monarchs, any overt act is necessary.

No man who reads this act can be surprised at the insurrection, which it soon after cost this country so much money and men, and what is worse, I fear, so much cruelty and perfidy, to suppress.

† 32 Geo. III. cap. 4. in the printed Book of Laws.

curity, like a white defendant, in the sympathies and partialities of the jury, or the judges, by whom he is to be tried; on the contrary, he is obnoxious to the same hostile prejudices in their minds, with which the servile witness himself is regarded: so that in his case, distrust of the accuser would, probably, be counterpoised by aversion to the accused. The free negro or mulatto defendant, is tried by jury, it is true, but not *per pares*; for though depressed by many oppressive distinctions into an inferior order in society, and far more degraded below the lowest white person, than the poorest peasant in this country is below our nobility, he cannot claim a jury of his own condition. White men alone are allowed to serve on juries in the colonies, in all cases, as well criminal as civil.

The danger of general ill-will, or envy, in the minds of an inferior, towards a superior order in society, will hardly be assigned as a sufficient objection to the admissibility of a witness: but if it be, here also the free-coloured person is in no less danger than the white. Nay, if the colonial writers and witnesses are to be believed, the latter would, in this respect, be in far less peril from servile evidence than the former; for I know not that ill-will towards the white people in general, has been imputed to the enslaved negroes by any of those authorities; whereas Mr. Edwards notices, as one of the many unhappy circumstances in the destiny of the free-coloured race, that they are objects of envy and hatred to the slaves.\* Unless, then, the supposed danger to an accused party from perjury, be diminished by the animosity of the witnesses, and by the disfavour of the court, the admission of the testimony of slaves against free-coloured persons puts its inadmissibility against the whites beyond excuse. The rejection of free testimony, by the same lawgivers, when offered against their own class, by a negro, or mulatto, was not less conclusive; nor can recent departures from that rule, if they were universal, weaken the force of the inference it affords, as to the motives from which these unjust and illiberal distinctions have arisen. Taken together, these circumstances plainly shew the true sources of this fatal defect in

\* Hist. of West Indies, Vol. II. Book IV. chap. i. p. 21. 27.

the colonial laws to be such as has been already indicated. They prove it to have proceeded from that universal hatred and contempt of the oppressor towards the oppressed, which manifests itself in the colonies by an abomination of the African colour and lineage; coupled with a desire to screen offenders of the privileged order from discreditable prosecutions, as well as from the danger of public punishment and disgrace. A new motive for pertinaciously adhering to this safeguard, is probably furnished, in some colonies, by their late meliorating laws. There are some of their provisions that would never have been framed by assemblies of planters, if this convenient rule of evidence had not precluded all danger of prosecutions for the violation or neglect of them.

I have dwelt the longer on this general and pernicious defect in the slave codes, because it is evident, that if ever the work of protecting the poor negroes by law against inordinate oppression, or lawless violence, shall be sincerely and efficaciously entered upon, it must begin at this point.

To shew this more clearly, let us consider how large a proportion of every West India community is at present disqualified from proving the crimes of white persons. The total amount of slaves in our islands is estimated at about 700,000, and that of white inhabitants at 50,000; which makes the latter, in the proportion of about one to fourteen of the former.

But it is material to remark, that while the inhabitants of the towns constitute the chief part of the white population, they comprise but a very small part of the enslaved negroes. On the plantations, on the contrary, it often happens that a single white man, assisted by one or two overseers, who are often mulattoes, or mestizes, has the government of from one to two, or even three hundred, slaves; and if the resident owner, or his chief manager, is a single man, there is probably no other white individual on the estate; but if he is married, his wife, and such of his children as are yet too young to be sent to Europe for education, of course also too young to give evidence, are the only additional residents of free condition. If plantation slaves are ill-treated contrary to law, the manager himself for the most part must be the criminal party; and who, under these circumstances, is to testify

against him? His overseers are most probably his accomplices; and besides, if they are now made admissible witnesses, or if they are white men, he has only, when about to perpetrate any act of cruelty prohibited by law, to send them out of the way. There is, however, little danger that men who have their bread to earn in that situation, will expose themselves to the odium and persecution that they would infallibly have to encounter among the planters, for telling tales out of school, and giving information against their employers, on behalf of the slaves.

It results from these premises, that while in West India societies collectively, not above one individual in fourteen is a competent witness of the crimes of white persons; there is not in the country parts of the islands, and on plantations especially, above one individual in a hundred, perhaps, who can be received in any degree to prove them; nor any witness at all against the person by whom they are most likely to be committed, if we except an individual or two in his service, and under his immediate controul. Now what should we think of such a phrase "as the protection of the law," in this crowded metropolis, and of those who called that protection "adequate and ample," if, (with the exception of the persons who usually demand the vigilance of the police, the ordinary law-breakers themselves,) one man in a hundred only were competent to prove or give information of a crime? Should we not say, that except to that hundredth person, the deserts of Africa would be safer than the streets of London; and that to tell the ninety-nine of their being protected by law, was to add insult to a barbarous proscription? Yet this illustration is, in truth, very feeble, when we apply it to the situation of plantation slaves.

But the reader, I hope, will remember what the effects of this law of evidence are acknowledged to be in the highways, even of the colonies, and in the avenues of their markets and principal towns; where these poor defenceless beings are not only beaten, but robbed of their little property, by people of free condition, without the possibility of redress. The same laws which would punish capitally their resistance of these ruffians, even by a blow or a struggle, preclude their appeal to the civil magistrate; and give by the rejection of their

evidence, certain impunity to their oppressors, though the crime may have been committed in the sight of a hundred black persons, and in broad day-light.\* In fact, Europeans are, by the effects of the climate, so much disposed to keep within doors during the heat of the day, that it would be much more difficult, even in a public road, and at high noon, to find an opportunity, if sought for, of doing any act there in the presence of a white person, than to avoid any such witness. Better proof cannot be desired of the facility or the frequency of such offences, under the existing law of evidence, than the very singular means which two or three colonial legislatures have resorted to for mitigating in such cases the ill effects of this law, namely, the compelling the free robbers to discover their own crimes upon oath, or presuming their guilt from their silence.†

#### SECTION VII.

##### **THE SLAVE, WHILE EXPOSED TO SO MANY REMEDIELLESS WRONGS, IS BEREFT BY THE SAME LAWS OF THE RIGHT OF SELF- DEFENCE.**

THERE remains a possible guard against wrongs accompanied with force, which the positive institutions of human society did not originally bestow, and which these wretched outlaws, therefore, may be supposed in some degree to possess — I mean a man's natural right of defending his own life and person from the violence of those who have no legal authority to assail them.

“ The law, in this case, (says Sir William Blackstone) “ respects the passions of the human mind, and when ex- “ ternal violence is offered to a man himself, or those to whom “ he bears a near connection, makes it lawful in him to do “ himself that immediate justice to which he is prompted by “ nature, and which no prudential motives are strong enough “ to restrain. It considers that the future process of law is “ by no means an adequate remedy for injuries accompanied “ with force; since it is impossible to say to what wanton

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\* See pp. 168, 169.

† See the 14th and 15th Sections of the last Meliorating Act of Dominica, passed in April, 1818. (Papers of June 9. 1819, p. 17.) and the Act of the Leeward Islands before referred to.

“ length of rapine or cruelty outrages of this sort might be carried, unless it were permitted a man immediately to oppose one violence with another. Self-defence, therefore, as it is justly called the primary law of nature, so it is not, neither can it be, in fact, taken away by the law of society.” \*

The Roman lawyers speak to the same effect: “ *Vim vi defendere, omnes leges, omniaque jura permittunt.* ” †

The exception of punishment inflicted by lawful authority, whether public or private, must, of course, be understood. But even where no such authority exists, our Colonial Assemblies have thought very differently from the legislators of Rome, and from Sir William Blackstone. They have not scrupled to abrogate this “ primary law of nature; ” and if obedience “ is impossible, ” at least they have taken care that the offender shall not be a second time refractory; for they have made self-defence against free persons (I beg their pardons, it is against *white* persons only) *a capital crime!*

Nor let it be supposed that such extreme injustice is only to be found in ancient and obsolete laws of the British islands. Very modern acts still in force there, nay, those meliorating laws themselves which are held forth as so honourable to colonial humanity, have introduced or re-enacted it. ‡

\* Blackst. Comm. 3 vol. cap. 1.

† Digest, Lib. ix. Tit. 2. Sec. 45.

‡ To offer violence, to strike, attempt to strike, *struggle with, resist, or oppose*, any white person, is, by these acts, declared to be a crime in a slave, which shall subject him, if the white person be wounded or hurt, and in some islands without that condition, to *death, dismemberment*, or other severe penalties: and lest there should be a doubt, whether there be any implied exceptions in relation to lawless outrages, or in favour of self-defence, the allowable excuses are, in the more modern acts, carefully and exactly specified. They are only those of obedience to the master’s immediate command, and in the lawful defence of *his* (*the master’s*) person or goods; and negative words even are sometimes (as in the Grenada Act) superadded, viz. “ no other cause or pretence.” See Jamaica Act of 1788, Sec. 33. Antigua Act of 1702, Sec. 6. St. Christopher’s Act of 1711, Sec. 4. Act of the Virgin Islands of 1783, Sec. 24. Grenada Act of 1766, &c. All annexed to the Privy Council report.

I reprint the above note, and the paragraphs in the text to which it is annexed, from the first printed but unpublished impression of this work

By the existing law in most, I believe in all of our colonies, the slave who should attempt to defend himself against a murderous weapon, or instrument of torture, in the hands of a white person, though the aggressor possessed no public war-

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without alteration; and to shew that it was perfectly correct as to Jamaica, I extract the following section of its famed Meliorating Act of 1788, from the Privy Council Report:—“ And be it enacted, that if any slave shall “ offer any violence, by striking or otherwise, to any white person, such slave, “ upon due and proper proof, shall upon conviction be punished with death “ or confinement, to hard labour for life, or otherwise, as the Court in their “ discretion shall think proper to inflict, provided such striking or conflict “ be not by command of his or their owners, overseers, or persons intrusted “ over them, or in the lawful defence of their owners’ persons or goods.”

In the boasted improvements of this act by that of 1792, printed by Mr. Bryan Edwards, in his History of the West Indies, with the eulogy before cited, I find this clause in the same words; except that the word “ *transportation* ” is introduced after the word “ *death* ;” but in the last edition of this consolidation act, in the parliamentary papers, I find after the word “ *person* ,” the words, “ *or persons of free condition* .”

As all white persons are “ of free condition,” this addition was presumably meant to designate, though by a departure from the ordinary language of West India laws, “ free coloured persons.” Whether this was one of the cases in which these legislators “ *availed themselves of the reproaches of their enemies* ,” I know not: but having very strong reason to believe that the printed paragraphs in the text to which this note is annexed were in their hands, I beg leave to inform them that my parenthesis was meant, to mark the oligarchical feelings out of which these cruel and sanguinary privations of the right of self-defence arose; and that their law is in my ideas by no means improved, but much the reverse, by the abrogation of this natural and necessary right in relation to a wider description of free persons; and those too by whom they are most likely to be provoked, or betrayed, into capital offences under this despotic and iniquitous law. I do not, indeed, hold with the assemblies, that people of colour are the most cruel and injurious to the slaves: if I thought so, my objections to this amendment would be so much the stronger: but the awe with which slaves from their earliest infancy have been taught to regard all individuals of the privileged class, must enable them much better to endure with patience from a white man, than from a free black or mulatto, such wrongs and outrages as may tempt them to use the interdicted natural right. Besides, a white man’s face is notice of his free condition; but in the case of a free black or mulatto aggressor, his freedom may be unknown or forgotten.

With these remarks, I leave the discerning reader to determine whether this alteration in the slave law of Jamaica was designed to remedy injustice, or only to parry a reproach.

rant or private authority over him, might be hanged for so obeying the imperious dictates of nature.

This iniquity, perhaps, like all the rest of the system, may be said to have its root in necessity: and I am not very anxious to determine whether it is really among those numberless secondary and subsidiary sins, the additional guilt of tolerating or establishing which, this terrible slavery unavoidably imposes on the lawgivers and statesmen who maintain it. But this unjust law seems to be another harsh peculiarity in the code of the West Indies; and if so, its necessity, supposing it to be really necessary, cannot be ascribed to the state of slavery in general, but only to the highly aggravated and dreadful species of it, which prevails in that country.

No distinction, I apprehend, has elsewhere been made by law between slaves and freemen, as to the rights of self-defence against persons not exercising a lawful authority over them.

The Roman law, in strongly recognizing this natural and general right, made no exception as to slaves \*; and, even in cases of unprovoked violence offered by them to free persons, its penalties were far from the sanguinary spirit of our colonial institutions. The Roman slave, who had injuriously beat a free man, instead of being put to death or mutilated, as in the West Indies, was only liable to be punished with whipping; which, if the master and the injured party could not agree as to the proper mode or portion of it, was to be moderated by the discretion of the judge. †

By the laws or charter of Henry I. the right of self-defence is strongly recognized, with an exception only in favour of the master or lord ‡; and even that exception seems, on the authority of Glanville, to have been disputable, at least in the time of Henry II. §; but this relates to the feudal vassal, rather

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The Meliorating Act of Dominica of 1788, is in this respect less objectionable, subjecting to capital punishment, "any slave who shall be convicted of having struck a *white person*, or of having struck a *free person of colour, being his master or mistress*." — (Pr. Council Report, Part III. title, Dominica, Appendix.)

\* See Digest, Lib. ix. Tit. 2. Sec. 45., &c. ad Legem Aquilium.

† Digest, Lib. xvii. Tit. 10. Sec. 17., &c. de Injuriis, &c.

‡ Leg. Hen. Prim. apud Wilkins, cap. lxxxiii.

§ Glanville, Lib. ix. cap. i.

than the slave: a bondman's right of resisting his master, if it existed at all, could of course only extend to cases of such violence by the latter as exceeded his lawful power. There is no doubt at least that in this, as in all other questions between the English villein, and his free opponents in general, his lord only excepted, the law was perfectly impartial. \* The law of slavery among other European nations, seems to have been, in the point in question, not much less equitable and humane. †

Supposing, however, that a political necessity, which has nowhere else been recognized, could be fairly alleged, for denying to the enslaved negro in our colonies the right of defending his person or his life against the unlicenced violence of the privileged class; and supposing a further necessity of annexing extreme penalties to an act at once so innocent in its moral nature, and so extremely difficult to avoid; surely the duty of protecting him against such dangerous violence by law, would on this account be the more urgent and sacred. Since, to repeat Sir William Blackstone's words, "outrages may be carried to the most wanton lengths of rapine and cruelty," when violence cannot be resisted: and since, in addition to the direct injury inflicted, the poor negro in such cases is put to the severest possible trial of his obedience to the law, and at the peril of his life, outrages upon the persons of these defenceless men ought to be restrained by legal checks of peculiar energy; and more than ordinary punishment ought to await the wanton offender against them.

Instead of this, how shocking a contrast does the tenderness of the colonial code towards the lawless oppressor, present to its severity against his resisting victim. I have shewn how culpably great the former is, even under the latest meliorating acts; but when the laws now under review were made, the contrast was still greater. Self-defence was a capital crime; murder a fifteen pound penalty.

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• See *supra*, p. 119.

† *Potges, Lib. ii. cap. 15. Sec. vii.*

## SECTION VIII.

CONCLUDING REMARKS ON THE DEFENCELESS SITUATION OF  
SLAVES IN OUR COLONIES, IN RELATION TO STRANGERS OF  
FREE CONDITION.

IT may be hoped that this branch of the slave law of the West Indies is now sufficiently developed.

The strange misrepresentations at least, by which its general character was concealed from the eye of the Privy Council and of Parliament, have been refuted ; and the proposition with which I sat out has been demonstrated to be true. Instead of that "ample security," which the enslaved negroes were alleged to possess in the public justice of the colonies against the wrongs of strangers, they have been shewn not only to possess "no legal rights," in the fair sense of that term, but to be, "with a few unimportant exceptions, out of the protection of the law."

In fact, it is not easy to distinguish in regard to crimes committed against them, how, in the colonial code, the case of a white stranger differs from that of the master himself. The old laws, as we have seen, made no such distinction ; except that in the case of murder, the offender, if not the owner, was obliged, in addition to the petty fine imposed on the latter, to pay the value of the slave. The new ostensible laws are, for the most part, equally indiscriminate. In theory, both master and stranger are liable to be punished for murder, mutilation, or extreme violence to the person ; — in practice, both escape, even in these enormous cases, with impunity.

The negro, therefore, is in some respects a slave to every white man in the community. He works indeed only for one, but is liable to be beaten and injured by all the rest, as much as if he stood in a servile relation towards them all ; and is as totally disabled from asserting any civil, or exercising any natural rights against them, as against his immediate master. Even the sanguinary laws noticed in the last section, those by which self-defence is prohibited under capital penalties, make it in no degree more penal to resist or oppose, beat or wound a master, than a white person who is a total stranger, and unarmed with any lawful authority.

The great uniformity of the colonial acts in this apparent inconsistency, is remarkable. Every island has its separate act on this subject; and yet the case of the resisted or wounded master, is no where, except in Dominica, distinguished from that of a white stranger, who, when assaulting another man's slave, is the object of the same offence.

We have then in this plurality of potential oppressors, this general outlawry, if I may so call it, of these unfortunate bondmen, another and cruel peculiarity in their situation, which distinguishes it, I believe, from any other servile state that human despotism has elsewhere established, in modern or ancient times.

I do not even think it necessary to except that of the Spartan helots; though these are said to have been also exposed to licensed outrage and murder by the privileged race; because they do not appear to have been the slaves of any particular master. Their servitude seems to have been a political, more than a private or domestic relation; and they were in effect the farming tenants, rather than the slaves of individuals, though divested of all civil rights, and tyrannically treated by the state.\*

The Athenian slave, if the learned researches of Archbiishop Potter may be trusted, had the full protection of the law against strangers. "Neither did the law secure them only from their "own masters," (he speaks of their resort to the Temple of Theseus) "but if any other citizen did them any injury, they were allowed to vindicate themselves by course of law."†

The more liberal rules of the Roman and English laws under this head, have been shewn in its different divisions; and, on the whole, I will venture to affirm that this aggravation of the destiny of the modern British slave, will be found to be as much beyond example as excuse.

When, however, I lay down such general propositions, I must not be understood to exclude exceptions in those foreign colonies and countries in the new world, in which negro slavery prevails. In the Spanish and Portuguese colonies, indeed, the slaves are much better protected by law in all re-

\* See page 58—9.

† Potter's Grecian Antiquities, Book I. cap. 10.

spects than in our own; but the law of the French colonies on this subject is, I believe, not less unjust and unmerciful than that of the British islands.\*

Other peculiar characteristics of this strange destiny have been mentioned, and more yet remain to be developed in this work, all of which will be found more or less reproachful to the slave masters of the new world; and some of them are so cruel in their nature and effects, that in the contemplation of them the want of legal protection against strangers may probably be forgot. I am aware that, even now, this part of my subject may appear to have been discussed at greater length than its comparative importance deserved; for, after all, it must be admitted that the nature of the connection with the master, is of infinitely more consequence to the destiny of the slave, than the relations which he bears to all the world besides.

But in a view to the existing defects, and possible improvements, of the system in point of law, the case perhaps is different. If the oppression of the master be far the worst part of the negro's destiny, it is also the least remediable, without abolishing the state itself, by means of direct legislation. Besides, it is an essential part of my purpose, to convince the European reader, how hopeless the expectation is, that this

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\* M. Hilliard D'Aubertuil, the before-quoted intelligent colonist and planter of St. Domingo, thus wrote, long prior to the slave trade controversy; and he was no enemy to that commerce, or to colonial slavery in general: — “ Non seulement nous sommes injustes envers nos esclaves; nous le sommes encore envers ceux des autres. Un esclave doit être admis à se plaindre lors qu'il a été maltraité par un autre que son maître: c'est assez de lui ôter la défense naturelle, sans lui interdire la défense civile. A Saint Domingue, *quiconque est blanc, maltraite impunément les noirs.* Leur situation est telle, qu'ils sont esclaves de leurs maîtres, et du public. Dans le tort que l'on fait à un esclave, les juges sont dans l'usage de ne considerer que la diminution de son prix. On devrait au contraire punir sévèrement, celui qui a maltraité l'esclave d'un autre: il est, horrible d'ajouter la perte de la sûreté, à celle de la liberté.” (*Considerations sur la Colonie de Saint Domingue*, Tome 1. p. 144, 5.) — From the general similarity, not to say identity, between our colonial law of slavery and that of the French West Indies, such passages as these would furnish not only illustrations, but proofs, if further proofs could be wanting after the authority of Sir William Young, and that of the other British colonists whom I have cited.

shocking system will ever be effectually reformed by the colonial assemblies ; and surely the laws which we have lately contemplated, are well fitted to produce that conviction. The probable inefficacy of legislation between a slave and his master, might have been a specious excuse for the neglect of it, if the assemblies had been honest enough to resort to that defence, instead of amusing us with ostensible and useless laws ; but for giving impunity to the oppression or injustice of strangers, no such apology can be supposed. Here protection is practicable ; is admitted to have been found necessary to the purposes of humanity ; and yet, in spite of their specious pretences, has been shewn by the confessions even of their own partizans, to be shamefully withheld. Here no wholesome ends of private industry, no necessary means of domestic discipline, can be pleaded ; on the contrary, the maintenance of entire subordination to the master, and of due reverence for his authority, plainly requires that his awful powers should not be arrogated by strangers ; but that the slave should find in obedience to him alone, or to his delegates, security against all other individuals. Yet these hated and despised beings are left at the mercy of every white man in the community, almost, if not quite, as much as at that of the master himself. The lawgivers, who should protect them, not only connive at the outrages to which they are exposed, but tie up their hands and their tongues, their natural and civil means of defence ; nay, directly adopt and encourage those cruel popular prejudices, which are the sources of so many of their wrongs, by making a contemptuous depression of their colour and lineage a standing principle of legislation.

## CHAPTER V.

OF THE LEGAL NATURE AND INCIDENTS OF WEST INDIA  
SLAVERY, IN ITS RELATIONS TO THE POLICE AND CIVIL  
GOVERNMENT OF THE COUNTRY.

WE have examined this singular condition of man as settled by law, in its relations, first to the master or owner, and next to all other free individuals in the community: it remains to consider, in a few particulars, the condition of the slave when regarded as a *subject*; or, at least, as an object of civil government.

In reviewing the situation of man as a member of civil society, it seems a just and convenient division, to consider, first, what advantages he derives from the body politic; and afterwards, to what civil duties, charges, and discipline he is subjected: in other words, what society gives to him on the one hand, and what it takes away, or exacts from him, on the other. I shall therefore adopt this method; and endeavour to state a brief debtor and creditor account between the enslaved negro, and the state to which he belongs.

The former part of this task is, in great measure, already accomplished.

Trivial and fruitless though the legal protection has been shewn to be, to which the colonial slave is entitled against free persons, it is the only benefit which he can be said to derive from society; except that further protection which it gives to him, against the violence or injustice of men of his own condition.

The latter, it must be admitted, is nearly as ample as could be wished; for such petty trespasses as slaves commit against each other, are commonly punished or repaired by the intervention of the masters; and all more serious offences against a fellow slave, are punished with sufficient severity by the civil magistrate. Of course, I do not include injuries received from the drivers, or from any other servile administrators of the master's authority, when he or his free substitute,

from that indolence which reposes itself on subordinate agents, or from any other motive, may discourage complaints, or refuse any redress. Here the law does not interfere; except in those extreme cases in which the master himself, if the immediate author of the injury, would theoretically be liable to punishment; and therefore the legal protection against fellow slaves must be limited, in respect of its more comprehensive range, to offences which are not perpetrated under colour of authority from the master.

For such personal security then, as is to be found in laws which protect a man tolerably well against his equals, but leave him in effect at the mercy of his superiors, and their agents, and all those members of the community, by whom he is most likely to be oppressed, the West India slave is indebted to the government under which he lives.

But, lest it should be doubted whether this really constitutes the whole of his obligations to society, I will proceed to notice those ordinary blessings of social life which he is not permitted to share.

#### SECTION I.

##### OF THE ORDINARY BENEFITS OF CIVIL SOCIETY WHICH ARE WITHHELD FROM THE NEGRO SLAVE.

SECURITY of person and property, education, and municipal capacities, rights, and privileges of various kinds, profitable or honourable, are the advantages which man in general derives from the social union. He is delivered from the perils of savage solitude or anarchy, his mind is cultivated, his manners are improved, and a variety of paths are opened to the attainment of new comforts and enjoyments, including property, civil distinctions, authority, and honours.

Let us enquire, then, whether any, and what portion of these benefits, beyond the very partial and inadequate personal protection that has been described, is possessed by the West India slave.

Of the far greater part of them our account may be immediately eased.

He is, as has been already shewn, divested of the right of property, and excluded from almost all the ordinary means of

acquiring that usufructuary interest in the subjects of property, which the master might allow him to enjoy.

As to his incapacity for public honours and offices, it will be comprised in the idea of private slavery, even by readers who have never crossed the Atlantic: nor do I mean to represent this circumstance of the state in question as an important aggravation of its evils. In a country, indeed, where liberty has attained to such perfection, that any degree of civil incapacity, however slight, is suffered with impatience, is confounded with the notion of slavery itself\*, and is allowed to be defensible only when necessary to the safety of the altar and the throne; in such a country, I say, even this least important hardship of colonial slavery might serve to call up a blush on the cheeks of its defenders; but by those who know the many severe and positive oppressions under which these poor beings labour, it would be thought as idle to complain of civil disqualifications like these, as to enumerate among the hardships of beggary, the want of a coach and six.

I do not regard even their incapacity for fiduciary offices of a private nature, such as those of executors, trustees, attorneys, and factors, as deserving a very conspicuous place in the catalogue of their wrongs; though these and similar exclusions from the creditable employments and vicarious functions of civil life, are, in a secondary view, of considerable importance, as tending to increase the cruel contempt under which they labour, and as shutting up many avenues to the fair attainment of favour, confidence, and freedom.†

\* Catholic emancipation.

† In the French islands these disabilities were introduced, or declared, by positive law; for the thirtieth article of the *Code Noir* expressly forbids slaves to exercise any public office or function, or to act as agents, except for their masters, in any private business whatever.

In our own colonies the same rules stand, like many more important parts of the slave law, on the authority of custom alone; but so violently does prejudice there oppose the elevation of the African race by any civil employment, that when a free mulatto, of good education and an excellent private character, was appointed some years ago to the subordinate station of waiter or searcher in the custom-house at Montserrat, it gave very great offence to one branch of the colonial legislature; and produced such strong remonstrances to the Lords Commissioners of the Treasury, that they thought fit to revoke his commission. Meantime, the local authorities

These also are hardships not necessarily incident to a state of slavery. The Roman and the English slaves were not disabled from exercising any offices of private trust, and often found in the faithful discharge of them, a path not only to wealth, but to particular consideration and indulgence from the master, and ultimately to liberty itself.

The former were the ordinary attorneys and factors, by whose agency commerce was carried on, and the most important affairs conducted. We find them copiously mentioned in the books of the civil law, as proctors or solicitors, factors, and notaries, &c., and intrusted in such characters with the most weighty transactions.\* Ships were also frequently commanded by slaves †: a striking contrast to the manners of the West Indies; where, though they are much employed as seamen, a slave was perhaps never known to fill the station of a subordinate officer, much less a master, of the smallest coasting vessel.

I find proofs in the Roman law, that slaves even sometimes attained to the sacred office of the Christian priesthood, nay, to the *episcopal dignity* itself; though it was probably only when their servile condition was unknown; for, by a law of the Emperor Leo, the case of such preferments without the master's consent, was specially provided for; and was to be remedied by degradation. ‡

The civil capacities of the English villein extended to authorities not, strictly speaking, of a private nature, and not derived from the master. Though the office of an executor, under our law, is private in respect of his nomination and duties, he is not completely clothed with it for the purposes of bringing actions, &c. without a kind of public investiture through the probate, which is now granted by the ecclesiastical judge, and was anciently obtained from a temporal court. Yet a villein was competent to be an executor, and might

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contumaciously resisted the appointment of the crown, by refusing to swear him in. Case of Mr. Skerritt, of Montserrat, which can be verified at the Treasury.

\* See p. 58, 59., and the references there given.

† Instit. Justin. Lib. iv. Tit. 7.

‡ Imp. Leon. Constit. 11. *De servo qui ignorante domino episcopus factus est.*

even bring actions against his lord in that character.\* But from all such civil functions, public or private, the poor negro slave is universally excluded.

The more weighty disabilities of contracting, of suing, and being sued, have been already noticed; and have been shewn to be, in their absolute and unqualified nature at least, peculiar to the slavery of the colonies.

These unfortunate bondmen, therefore, already appear to be excluded from the far greater part of the temporal blessings of society. Neither wealth, nor property, nor power, nor privilege, nor civil offices and trusts, nor distinction, nor honour, are placed within the reach of the negro slave. If then the state has given him any thing, in return for all the rigid duties which it imposes, and all the extreme submission which it exacts, beyond a degree of personal security than which that of the wandering savage, unbereft of his self-defensive powers, is far more perfect, education must be the important title under which the compensation will be found.

## SECTION II.

### THE EDUCATION OF SLAVES IS SHAMEFULLY NEGLECTED IN THE LAWS AND INSTITUTIONS OF OUR COLONIES.

EDUCATION, in the more comprehensive sense of the word, is by far the most estimable of all the advantages that society can confer upon man. It comprises information in those arts which increase and elevate the comforts of animal life, and which externally distinguish the polished citizen from the rude barbarian, as well as the cultivation of the intellectual powers; and, what is of still greater importance, the improvement of the moral character, and preparation by religious culture, for a future state of existence.

The last is a subject which will deserve a separate consideration; but I would, in the first place, enquire, what benefits of this interesting class, independently of religion, does the African negro acquire by his being transported to the West Indies, and becoming the subject of a civilized nation?

Among the falsehoods which have been invented by the

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\* Litt. Villeinage. Sect. 191, 192.

apologists of this shameful system, they have not thought it advisable, I believe, ever to allege that education, in the common sense of that term, has been at all provided for the slaves, whether Africans or creoles, adults or infants, in our colonies, either by the voluntary care of their masters, or by any compulsory regulation of the law. There are, in fact, no public schools or teachers for this purpose; there is no act of Assembly which obliges, or affects to oblige, the master to educate his slaves; there was not, till very recently, and I doubt whether there yet is, a school for their education in the whole chain of our islands, from Barbadoes down to Jamaica: and I believe there is not an adult field negro in a thousand, in our islands collectively, who knows the letters of the English alphabet, though there are some of them, natives of Africa, who can both read and write the Arabic characters. \*

Waving then, for a moment, the subject of religion, in what other species of knowledge are these unfortunate men advanced

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\* In limiting this proposition to adult *field* negroes, let me not be understood as admitting that slaves of other descriptions are, generally, or often taught to read, but there were always occasional, though rare exceptions to the general neglect, in favour of mulattoes, and sometimes even of negro children born in the house, and brought up as family slaves; and I am informed that now, in one or two of our islands, there have been some recent attempts by liberal and charitable individuals, to establish schools for the reception of negro and mulatto children, whether free or slaves, when the masters of the latter choose to have them taught.

My information does not enable me to state upon what scale this improvement has been any where attempted. However minute, I would not withhold from its authors merited commendation; but the plan cannot I conceive, in its nature, generally embrace the education of the children, of plantation slaves meant to be brought up to the labours of the field, much less adults of that class. If it did, a school for the children alone would be wanted on almost every large plantation. I conclude, therefore, that if these charitable attempts should succeed, the benefit must be confined to the town slaves alone; or perhaps the negro children of estates bordering on the chief towns may be included.

Some of the missionaries also, I understand, the Methodists especially, are laudably endeavouring to impart to their sable converts the faculty of reading, for their better advancement in Christian knowledge, and not without success. But all these pious and charitable efforts will effect very little for the great mass of the slave population, old or young, unless powerfully seconded by their masters, who have hitherto considered the gross and pagan ignorance of their slaves as a matter with which they had no concern, or for which they had no responsibility.

by their incorporation with a civilized people? If in Africa, their minds and their manners were rude and barbarous, by what means, and in what respect, are they polished and improved in the West Indies?

They are taught, I admit, to dig cane holes, and to carry loads; and a few even learn the processes of boiling sugar and distilling rum; but unless man becomes civilized and refined by the mere intensity of his manual labour, enforced by the driving whip, I know no means by which these degraded beings can be said to rise in the scale of civilization in our colonies, except such as the laws rather discourage than provide. They may, and do, learn many new vices, the necessary fruit of oppression; while they lose almost all the ingenuous virtues that belonged to their native freedom. But if they obtain any mental improvement, it must be rather in defiance of the sordid policy and brutalizing means, by which they are governed, than by their operation or aid.

It is true that, from the nature of the relation between master and slave, the moral as well as physical condition of the latter must depend much more on the will of the former, than on the legislative authority of the state. But this is so far from extenuating, that it greatly aggravates the neglect of the legislature to promote, as far as its power extends, among these helpless subjects of its jurisdiction, those sacred objects of civil government, intellectual and moral instruction; for it should not be, though it too commonly is, forgotten in these discussions, that the master's exorbitant authority, which is interposed between the enslaved individual and the civil magistrate, is introduced, or alone upheld, by the power of the state itself; and therefore can furnish no excuse whatever for the practical impotency, much less for the theoretical imperfection, of the law.

The dependency of a child on its parent, is a relation not created by the institutions of society, but by Nature; and therefore legislators are not generally bound to take, as Lycurgus did, the education of children out of the hands of parents of free condition, and provide for it at the public cost. It is enough that means and motives are held forth in this case, to excite and assist the unrestrained efforts of parental prudence and affection; but that legislature would be justly

chargeable with culpable neglect of duty, which should omit to provide for destitute orphans, and for the children of the indigent and helpless, some means of education.

Since then the artificial connection between master and slave, which supersedes the parental authority of the latter over his own offspring, is created or upheld by the laws, the lawgiver is responsible for its consequences; and if the infant slave is left, untaught and unadmonished, to grow up in brutal ignorance and vice, it is a crime not only in the master but the state.

The principles, thus far asserted, might be maintained even among heathens: they can be denied by none but men, if such there be, who regard it as no duty of civil government to promote or defend the interests of civilization, knowledge, or virtue. But I write to those who are, or call themselves Christians; and must therefore take higher ground.

### SECTION III.

#### THE SACRED DUTY OF INSTRUCTING THE INFANT OR ADULT SLAVES IN THE PRINCIPLES OF CHRISTIANITY, AND PROVIDING FOR THEM THE MEANS OF PUBLIC WORSHIP, IS EQUALLY NEGLECTED.

CAN it be denied that, in a Christian country, the first and most sacred duty of the legislature is to provide for the religious instruction of the people under its government, whether bond or free?

To reason to this duty from the precepts or principles of the gospel, would be idle and absurd; for who that has sincerely received Christianity in any of its forms, can for a moment doubt on this subject? If there had been no express command "to preach the gospel to every creature," the duty of imparting its benignant light to our helpless and ignorant dependents, would have been found by plain implication in every page of the New Testament.

But I will not address the argument only to the professed disciples of Jesus. A benevolent infidel even, if not blind through his prejudices to the temporal effects of the Christian faith, would wish to see the miserable bondmen of the Antilles cheered by its happy delusions: nay, perhaps the cold-blooded

philosophical sceptic himself, might be content to give over to the school of priestcraft, men of whose moral or intellectual culture he must otherwise totally despair.

If any difficulty can arise on this subject, it must be found with a party, which I fear is pretty numerous among us ; with those nominal, but half doubting and wholly lukewarm Christians, who are always for disposing of religious topics, whether speculative or practical, by a previous question : but let such persons consider, that there is a great difference, in this life at least, between never having been taught Christianity at all, and the not knowing or caring whether it be true or false. They themselves have obligations to the pulpit and the Bible, of a very important kind ; though less perhaps than they might have if they pleased, by all the difference between time and eternity.

From what other source have flowed those moral principles and habits, which such men are not so apt to depreciate, and which are clearly essential to the well-being of the individuals, as well as of society at large ? Without the lessons of religion, it might not have been easy to avoid even the whipping post or the gibbet ; for few offenders know much of acts of parliament, till they feel their application ; though all men in Christian lands are taught “ thou shalt not steal,” and “ thou shalt do no murder.”

Is religion regarded as a mere scaffolding for the construction of moral character? still we must not neglect the scaffolding while the edifice is yet to be raised. The question here, let it be remembered, is not whether morals can possibly be taught without religion, but whether they are in fact so taught to these ignorant bondmen. — Nor would it be enough, if, according to the creed of some modern philosophers, the social duties might be learnt as well out of church, as within it, by a literate and civilized people, unless the same could be affirmed of men in a state of utter ignorance and barbarism. The new method of instruction, whatever it is, should be actually provided, and shewn to be effectual, before we can warrantably exclude or neglect the old.

Without insisting further on a public duty, which most of my readers will admit to be obvious and sacred, let us recollect how it is commonly fulfilled by the institutions of Christian countries in Europe ; that we may afterwards the more fairly

estimate the conduct of the colonial legislatures, in this most interesting point.

The means of religious education in general, are either private or public. But the latter, if we understand by them only the sermons and public worship of the church, are rarely found effectual where the former have been wholly neglected. It was not supposed by the framers of our ecclesiastical system, that public instruction from the pulpit alone would suffice. On the contrary, the instruction of each individual by his Christian parents and godfathers, aided by the private superintendance of the clergy, is considered as a necessary preparation for admission to the sacred ordinances. Not only do our private and public schools give assistance to this necessary work, but in some places it is happily promoted by the pastoral care of the parish priest or curate, and by the excellent institution of Sunday schools; and though it is too often much neglected, yet the poorest child in England can rarely be wholly destitute of private and individual teaching, unless through the remediless neglect of its irreligious parents.

The young, therefore, who in a Christian land are reasonably presumed to be the only persons ignorant of the general principles of religion, are here, individually as well as collectively, privately as well as publicly, instructed.—Here too we have churches in every parish, and for the most part within a moderate distance from every man's habitation, wherein twice on every sabbath, the people, whether old or young, rich or poor, are instructed in their religious duties; and that not only by the forms of worship in which they engage, and by the reading of the Holy Scriptures, but by discourses directly addressed to them, and which are, or ought to be, adapted to the capacities and general characters of the congregation.

Such are the means provided, directly or indirectly, by the state, for the religious instruction of the people in this country. In the opinion of most serious minds, they ought to be further extended; but no Christian, I trust, regards them as at all redundant.

The lawgiver of the West Indies had, in this respect, a more arduous duty to perform, towards the great and helpless mass of the people committed to his care.

He could not justifiably rely on such means of private instruction alone as may suffice in Europe ; not only for a reason already noticed, the obstruction of parental offices by slavery, but also because persons of all ages among the people for whom he had to legislate, had the first elements of Christianity to learn. A great portion of the adults had notoriously been brought from a country, where, with the exception of a few Mahometans, there are none but Pagan inhabitants. Besides, the parents or ancestors even of the Creole negroes, were of the same hapless description ; and in some of our colonies, a generation has not yet passed away since they were first settled by new imported African slaves.

Let us suppose some insulated district of this kingdom, the Isle of Wight for instance, to be wholly peopled by heathens ; and it will be evident, that the same establishments of a parochial ministry and schools, as may now suffice for it, would be, in that case, greatly inadequate to the religious instruction of the inhabitants. It would be necessary to superadd some special institutions, not only for the benefit of the adults, but to supply to the children the total and universal want of an early initiation in Christian knowledge by parental teaching and example.

Let us now see how the duties arising from this singular situation have been fulfilled by the colonial legislators.

It has been already noticed, that, subject perhaps to very trivial recent exceptions, there have not been, nor yet are, in any of our islands any schools for the education of slaves, in the ordinary sense of the term education, as we apply it to the children of the poor. The schoolmaster, therefore, does not supply, what the negro parent, from his heathen ignorance, is unable to impart. How then are infant slaves to acquire the first rudiments of Christian knowledge ? It has never, I believe, been pretended, that any religious instruction is commonly given by the owner himself, by the manager, or any other person employed on the plantations.

How, also, are the adult pagan negroes which have been brought from Guinea to be converted to Christianity ? The only education of the newly-arrived African was his *seasoning* ; a culture, in which religious or moral instruction is no more included, than it is in the discipline of a horse breaker.

As to the infant offspring of the gang, the utmost boast of the planter is, that in taking them from their parents, he gives them in charge by wholesale, till they are of an age to be driven, to some old female slave of the same heathen race, who is, in a certain degree, attentive to their bodily welfare. Even as animals, they are, alas ! very grossly neglected : but that they are at all educated as immortal or rational beings, is more, I repeat, than the planters, in their own defence, have ever, to my knowledge, thought it necessary to assert.

That the colonial legislators have everywhere acquiesced in this very criminal neglect, leaving the master to follow the bent of his own irreligious feelings, the statute books of every island will attest. There was indeed an act of Jamaica of 1696, which enjoined masters to instruct their slaves, and to have them baptised when fit for it ; but without even the pretence of any punishment or remedy for his neglect of this idle injunction ; and after near a century of acknowledged uselessness, the same clause was gravely re-enacted in the meliorating act of 1788. Dominica, eleven years after, amused us with a like enactment \* ; and the late Curate's Act of Jamaica directs that the slaves shall be instructed in the doctrines of Christianity, *provided always that the master's consent shall be first had and obtained.* † But the only efficient *religious* slave laws that I have met with, are those which *prevent the slave being made a free man by his admission into the Christian church* ; for it is a fact well worthy of observation, that

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\* " Be it enacted, that all owners, managers, or overseers, or one of them, shall on every Sunday, on their several estates and plantations, convene together the slaves of the said estate or plantation, for the purpose of performing divine worship, and the said owners, managers, or overseers, shall not fail to exhort all male and female slaves who may be unbaptized, to receive the holy sacrament of baptism," &c. (Meliorating Act of Dominica, of 1799, sect. 3. Papers of June 8. 1804.) This is the act which General Prevost, the governor of the island, afterwards in his official return to Earl Camden, of 1805, stated " to have been considered in the colony, only as a political measure to avert the interference of the mother country, in the management of slaves," and therefore to have been wholly neglected in practice, from the day it was passed to that hour. (Papers of Feb. 25. 1805. Ho. Com. p. 36.) Let not the reader doubt, therefore, whether religion is held a subject too sacred for ostensible legislation.

† Act of December 19, 1816. Papers of 10th June, 1818, p. 52.

the first founders of this slavery in the the English as well as the Dutch colonies, held it to be incompatible with the condition of a Christian man, and such as pagans or infidels could alone be lawfully subjected to; and that consequently baptism was a virtual enfranchisement. \* In popish countries the authority of the church probably superseded this deduction from scriptural principles; but it seems to have prevailed among the colonists of every protestant power; and in the Dutch West Indies, the law, both in theory and in practice, was so held down to the time in which Demerara and Essequibo were first conquered by this country. Our colonial legislators, therefore, thus far, dealt sincerely and efficiently with this sacred subject. “*Be it enacted, that no slave shall be “free by becoming Christian.”*†

In the enquiries of the Privy Council and of Parliament in 1788, and the following years, this defect of the slave laws was manifested, beyond dispute. Many of the colonial witnesses did not scruple to acknowledge the total neglect of this sacred branch of duty by their legislators; some of them apparently supposing and insinuating, as an excuse, that the British government was the party bound to provide for it; while others fairly admitted the fact, without attempting to offer any explanation or apology. ‡

\* Even Lord Coke held the opinion, that pagans were to be treated as perpetual and irreclaimable enemies; and on such opinions stood the first defences of the slave trade in England.

† Act of Jamaica of 1696, No. 38. Sect. 40. Privy Council Report.

‡ “Q. What has been, and is now, the situation of the slaves in Jamaica as to religious instruction?

“A. There are a very few properties on which there are Moravian partners; but in general, there is no attention paid to any religious instruction.” (John Wedderburn, Esq. Evidence of 1790, Ho. Com. p. 381.)

“Q. Are negro slaves, or their children in general, baptized, and what religious institutions are there for their benefit, in each of the islands of the West Indies?

“A. It is not uncommon for negro slaves to be baptized by the Romish priests, but this depends entirely on their own inclinations, as there are no religious institutions established by law for the benefit of slaves in the island.” (Gov. Seton, P. C. Rep. on Slave Trade, p. 3. St. Vincent, A. N. 18 and 19.)

“Q. What religious institutions are there for the benefit of negro slaves in each of the islands in the West Indies?

It would be wasting the reader's time to accumulate further proofs of this indubitable truth, in regard to the case as it stood up to 1790, than are contained in the subjoined note. He will hardly suppose that so many respectable witnesses, called on the part of the colonies, all engaged in the slave system, concurred to calumniate themselves and their brother colonists. Yet, such has been the boldness of misrepresentation, employed to defeat the efforts of the abolitionists and the friends of colonial reform, by lulling the consciences of the people of England into a deceitful calm on this awful subject, that several of the colonial champions have not scrupled to assert, with reference even to that period, that the slaves have been well attended to in point of religious worship and instruction, and to hold out this as an ample compensation for their bondage; and for all the miseries of the slave-trade.

I know of nothing less consistent with the character of this great country, great, in the truest sense, from its moral and religious superiority to other nations, than that the facts here stated were brought to the notice of its legislature more than thirty years ago, and yet that these "shameful neglects," as that eminent colonist, the late Mr. James Baillie, justly called them, remain to be retrieved. That such, however, is the case, is the clear result of voluminous evidence on this subject since laid on the tables of parliament, consisting of official returns from the colonies at different periods; but more especially of papers printed by orders of the House of Commons in 1815 and 1818 \*, by which it will appear, that in many islands, there is not yet a church or a clergyman; and that in colonies,

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*A. By Mr. Robertson. "None established in the Windward or Leeward Islands."*

*A. By Mr. Laing. "None." (Same Rep. and Pt. title Dominica, A. N. 19.)*

*"Q. Same as the preceding.*

*A. By Mr. Fuller, Agent of Jamaica, Mr. Chisholme, and Mr. Long. "We know of none such in Jamaica." (Same Rep. and Pt. title Jamaica, A. N. 19.)*

*"In the old English islands, and even the ceded islands of St. Vincent and Dominique, the Negroes, in respect to religion, are very shamefully neglected."*  
(James Baillie, Esq. Evidence of 1790, Ho. Com. 201.)

*\* By orders of 12th July, 1815, and 10th June, 1818.*

in which the religious establishments are comparatively on the largest scale, it would be impossible for a fiftieth part of the slaves to have any benefit from them, even if the labours of the clergy were particularly directed to their instruction.

Here I must notice a distinction highly discreditable to the religious character of British statesmen of the present age.

Our West India colonies may be distributed into two classes, the old, and the new; of which the latter (Trinidad and Saint Lucia, and our new settlements in Guiana excepted,) were acquired by the treaty of peace in 1763; but the former were settled by, or ceded to Great Britain, a century or more antecedent to that period.

In all the old islands, with the exception of Tortola and its dependencies, (which, though settled in the seventeenth century, had no internal legislature till 1773,) there is some, though a faint, and highly inadequate, imitation of the ecclesiastical establishments in England. Parochial churches have been built, and rectors of the national church are maintained; not, indeed, by tithes, but by a compulsory contribution in lieu of them, which is charged on the landholders in their respective parishes. But in the new colonies, with a slight exception as to Grenada, no such vestiges of national religion were, till lately, any where to be found; and to this hour they are utterly inadequate, even with a view to the white population alone. As to the slaves, the case is still as bad as ever; except where there are missionary establishments of recent foundation, by which the charity of private persons in the mother-country has attempted, in a small degree, to repair the sad neglects of the governing powers.

But it is right to expose these shameful neglects a little more in detail.

In the large island of Dominica, the communication of the different districts of which with each other by land, is, from the mountainous and broken face of the country, extremely difficult, and in many parts wholly precluded, there is but one clergyman, and one place of public worship, belonging to the established church, which is the Court-house in the town of Roseau. There are ten parishes in the island; so many divisions having been found necessary for temporal purposes; but no parish church, no clergyman, no tithes, or any provision

whatever in lieu of them, except in the parish of Saint George, where the rector has a salary from the colonial treasury; and even this solitary institution is but of a few years standing. \*

Of Saint Vincent, that very flourishing colony, Mr. B. Edwards gave, in 1793, the following account:— “ The “ island is divided into five parishes, of which only one was “ provided with a church, and that was blown down in the “ hurricane of 1780. Whether it is rebuilt I am not in-“ formed.” † The Charribs have been since expelled, and their large part of the island added to the British settlements: yet the case remains the same. Not an edifice, as I believe, consecrated to public worship yet distinguishes this island from a pagan land; and of five extensive parishes, three are without a clergyman. For the other two, there is a single incumbent, with a salary from the island of about 300*l.* sterling. The population, by the last returns, was 27,455. ‡

The other new islands, acquired by the treaty of 1763, were Grenada and the Grenadines; and Mr. Edwards states, that, until 1784, their new masters had made no provision whatever for public worship. In that year they appointed four clergymen, with trifling salaries, for Grenada, and one for the island of Cariacou: a moderate provision of spiritual labourers, certainly, for a population of 24,000 slaves, which the islands

\* “ *We have only*, said Governor Orde in 1788, *one protestant clergyman, and he has no salary.* — P. C. Report.

“ *There has been no protestant church* (said Governor Barnes in 1811) *in the island for very many years, and previously to my taking charge of the government, there had been no clergyman resident for a considerable time.* ” — “ I fear,” he added, “ it will be some time longer before the church will be built, as ten years have now elapsed since an act was passed for the purpose, and the foundation stone has not yet been laid. — (Papers of 12th July, 1815, p. 25.)

“ *There is* (said Governor Maxwell in 1817) *no protestant church.* Divine service is performed in the Court-house in the town of Roseau.” — (Papers of 10th June, 1818, p. 164.)

† History of West Indies, vol. i. book 5. chap. 3.

‡ Papers of July 12. 1815, p. 77. — The return of President Paul is extremely brief. He says nothing of any church; and his silence, as a planter of the island, confirms what I state here on general report. I can find no information whatever on these subjects from St. Vincent’s, among the more recent returns from the other colonies in the papers of 1818; and I take this as further confirmation, that the case is as bad, if not worse, than before.

then contained by the same account, besides free Negroes, and persons of colour. It was no great expence of candour, when the council and assembly admitted, "that but a small part " of their slaves could possibly find room in their churches, " if disposed to go there." \* But it appears from the last returns, that they have since thought this ecclesiastical establishment much too liberal; for it seems that in 1807 and 1813 they passed clergy acts, reducing their six very extensive parishes, comprising 26,910 souls, into two benefices, with salaries of 306*l.* sterling each; and in three at least of these parishes the governor states that there is neither church, chapel, or parsonage. †

In Demerara and Essequibo, one church and one clergyman has been thought enough for all the free inhabitants and a population of 77,376 slaves. ‡

From Berbice the return is *nil*, under both the heads of enquiry as to churches, and church of England clergy. One Dutch clergyman, preaching and praying in the Dutch language, is the whole provision in this English colony for 25,959 souls. §

The governor of Trinidad expresses his concern that there is no church, or church establishment in that island. ||

Let us now advert to the other class of West India colonies, and see to what the ecclesiastical institutions in the old islands amount.

Jamaica has twenty-one parishes, and we learn from the Governor's late returns, that each parish has a rector. The salaries are obviously much too small to afford a curate; but this defect has been supplied by an act of December, 1816, (one of the good effects of the Register controversy,) so far as to enable the governor to appoint curates, not exceeding the number of benefices, with salaries not exceeding 300*l.* currency, to be paid out of the insular treasury. It is not said that the

\* History of West Indies, book 3. chap. 3.—P. C. Report, part 5. title Grenada, 19.

† Papers of 10th June, 1818, p. 167.

‡ Same, p. 163.

§ Papers of 1815, p. 188.

|| Papers of 1818, p. 211.

curates shall hold their appointments for life; and their salaries are not to be paid without certificates that the duties are actually performed.

Supposing that proper persons can be found for these curacies, (a large supposition when the climate and the expence of subsistence in that country to Europeans in a respectable sphere of life is considered, and that they have residences to provide for themselves), the case will certainly be much improved; and we shall then have forty-two clergymen in an island one hundred and fifty miles long, and forty on a medium broad; which, supposing them equally dispersed, would be one in each district of near one hundred and forty-three square miles.

It will be seen at once, what a mockery it would be to represent this scanty establishment as offering to the slaves in general, amounting by the last printed returns, those of 1812, to about 320,000, the benefit of public worship and instruction. But a very small part of them could ever go to church, even were the whole sabbath their own for devotional uses; whereas it will hereafter be shewn that they are obliged to spend it, or great part of it in working for their own subsistence.

It is true that much of the island, Mr. Edwards supposes above one half of it, is quite unsettled: but this will not improve our estimate: because the cultivated and uncultivated parts are intermixed; and the whole circumference is in some degree settled and peopled. On the other hand, the country is so mountainous, that the same writer supposes the superficies of the island to exceed the base by one-sixteenth part, and the difficulty of intercourse between various places must, by this cause, be obviously increased. I am credibly informed, that there are well-peopled parts of the island from which the road to the nearest church would measure fifty miles. In the ordinary occupations of European gentlemen in that climate, though commonly limited to a short distance from their residence, a wheeled carriage, or a saddle-horse at least, is a necessary of life; but a whole stud would be necessary for the poor curates in such cases, in order to visit, as they are required by the new act to do, all the estates

in their respective parishes in rotation; a heavy charge certainly, upon their very moderate stipends.

After stating such facts, it can hardly be necessary to say more of the utter inadequacy of the public means of religious instruction in Jamaica, even supposing all the curates to be found. Taking the whole population of all colours to be 400,000, it would give about 19,000 to each parish, and 9,500 to each clergyman. The rector or curate who should attempt to discharge fully his pastoral duties to such a body of parishioners, of whom so large a part are to be reclaimed from pagan ignorance by his own unassisted efforts, would stand in need of miraculous powers. That his individual attentions must be paid by daily journeys of twenty, or even fifty miles, under a vertical sun, is but a part of the difficulty.

In some of the old islands, the extent of the parishes, and of the population, is not quite so great in proportion to the number of churches and clergymen, as in Jamaica. Saint Christopher has nine parishes, each provided with a church; but as all of them except one are, and long have been, held by pluralists, there are not more than five clergymen in that island. By the last printed returns, the population was 23,491.

In Antigua and Nevis, the case is not so materially different as to deserve specification.

In Montserrat there are two parishes; but as no clergymen are mentioned in the late return, perhaps the case was, as it notoriously has been formerly for long periods, that no clergyman was resident in that island. \*

In the Bahamas, comprising a great number of islands widely dispersed, the islands are grouped together into nine different parishes, but there is for the whole government only one clergyman of the established church, who is settled at New Providence; and for any benefit the population of the other islands can derive from him, he might as well be in Japan. †

The case is similar in the Virgin islands, except that the islands are but few. They have one clergyman only, who is

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\* Papers of July, 1815, p. 145. Among the later papers on this subject, those of 1818, I do not perceive any return from this island.

† Papers of July, 1815., p. 46., and of June, 1818, p. 149.

settled at Road Town, Tortola, and even in that island a small part only of the slaves are at all within reach of his ministry.

On the whole, it may be safely affirmed, that even in the old islands, no human zeal or industry could be equal to a tenth part of the duties of the parochial clergy, were the slaves practically regarded as belonging to their flock.

But the truth is, that this unfortunate mass of the population of the West Indies has, with very few and very partial exceptions, never been so regarded, either by the government or the clergy.\* The very size of the churches might alone attest this fact to the eye of a stranger, especially in those parishes which comprise no commercial town, the seat of the white population; for were a twentieth part only of the adult parish slaves to seek admission, they could not obtain it; not even if the preacher and his two or three white hearers were willing for their sakes to suffer martyrdom from the foul air and the pressure. But there is no risk in these places of worship, small though they are, of at all enhancing the inconveniences of the climate by a crowd; and a field-negro rarely, if ever, presumes to shew himself within their hallowed precincts, unless the poor creature should chance to peep in, with a timid and wondering countenance, in order to gratify his curiosity, at one of the doors or windows.

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\* I am glad, that in stating this fact, I need resort to no other authority to warrant me in it than that of the established clergy themselves. A very few of them only claim any degree of success in their alleged efforts for teaching slaves; and though some of them state that a few free coloured people and slaves occasionally come to church, it is probable that even this scanty occasional attendance is chiefly or wholly by free negroes or mulattoes, whom the clergyman, for the most part, cannot distinguish from the slaves; or by the domestics, which are every where very numerous, and at least tenfold as many in every parish as the largest number of black hearers that any incumbent has led us to believe he ever addresses in church. I believe, therefore, it might with sufficient accuracy be affirmed, that the *field negroes* in no degree whatever, in any part of the British West Indies, have any benefit from public worship or instruction, except from sectarian ministers.

It is difficult to select among the decisive testimonies to this effect that are to be found in the Parliamentary Papers; comprising, as I believe they do, returns from every resident incumbent in all the different islands, such as are at once brief and satisfactory. I will subjoin, however, some

Such, in a general view, are those religious establishments in the old islands, which are to supply the want of all means

extracts, which, however long, will be found well worth the attention of the pious reader. They are all taken from official returns to the governors from beneficed clergymen, in consequence of a circular letter from Earl Bathurst to the former, dated 7th April, 1817, enquiring as to the existing state of the ecclesiastical establishments in our colonies, and the number of the slaves who had become members of the Church of England.

#### ANTIGUA.

Extracts from the Return of the Reverend WILLIAM CHADERTON, Rector of ST. PAUL. (Pages 147. and 148. of the Papers of 10th June, 1818.

“ If I am asked whether any converts have come over to me, either from “ heathenism or from the sectarian parties amongst us, *I answer, not one;* “ and for this very plain reason, because *no attempts have been made by me to bring them over, in consequence of the limited state of our establishment, and the labours that devolve upon me in the care of my regular flock; circumstances which preclude all possibility of my affording the slaves of my parish any sufficient instruction.*

“ If some of my replies should not afford the satisfaction which might be “ desired, I must beg leave, with all humility, to say, in my own justification, (and my remark, when it comes to be explained, *will naturally extend to my brother clergymen,*) that it is not my fault if the reports are not as “ favourable as could be wished. If the slave-population is not properly “ provided with the means of religious instruction, according to the ordinances of the Established Church, the fault rests not in us who are “ appointed to administer those ordinances, but it proceeds from local circumstances, with which the Prince Regent’s government ought to be “ made well acquainted, and which it is utterly beyond the power of the “ regular clergy to alter or correct. There are, Sir, many obstacles of “ considerable magnitude, which tend to exclude the slaves from our pastoral care. The first is, the want of room in our churches. Taking my “ own church, for example: after the regular congregation is accommodated, there is only *occasionally* a vacancy that would admit about thirty “ persons. Now, the slave-population in my parish amounts to *three thousand seven hundred and eighteen souls*; there is, therefore, a prodigious “ number, by this single circumstance, unavoidably excluded from attending the established worship on Sunday, which is the only day they have “ in their power. But suppose this impediment removed, and our churches “ were calculated to afford greater accommodation to these people; and “ suppose them either prevailed upon or compelled to attend our public service; still, Sir, I fear the result would fall very far short of the expectations of the Prince Regent’s government. Let it be remembered, Sir, “ that *the slaves are in a state of the grossest ignorance; that their minds are totally destitute of all cultivation. To crowd them into a church, therefore,*

of private instruction, and bring these poor pagans to a knowledge of the Gospel.

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“ without some previous preparation, would be a procedure equally useless and “ absurd. Our Liturgy would be wholly unintelligible to them; and the ad-“ dresses from the pulpit, which surely must be adopted, in some degree, to the “ superior information of our more enlightened hearers, would be to them as “ unedifying as if they were preached in a foreign tongue.

“ It must be obvious, therefore, that the ordinary system of instruction pur-“ sued in our churches, and the deficiency of accommodation in point of room, “ present great obstacles to the slaves deriving any degree of religious improve-“ ment from the regular clergy; and a little reflection will show, that it is “ absolutely impossible we should adopt any extraordinary measures for the “ accomplishment of this great and important purpose. Our Saviour’s re-“ mark applies with peculiar force and propriety to us, in our situation with “ respect to the slaves: ‘ The harvest truly is great, but the labourers are few.’ “ The slaves, in fact, abound to that degree, that the single exertions of the “ rectors in the several parishes, supposing them to be pressed with the most “ ardent zeal, could never be adequate to supply their spiritual wants, and at-“ tend to those of the white and free people of colour who constitute their “ regular charge.

“ If this class of people, Sir, are to be instructed by the established clergy, “ we must first undergo a thorough metamorphosis; we must entirely alter “ our present habits and manners, and assimilate ourselves to the Negroes. We “ must give a complete turn to the train of our ideas, and bring them down to “ a level with those of the slave. We must acquire new methods of thinking, “ of reasoning, and of expressing ourselves; and, when we have effected this “ change, to make any progress in our work, we must go in continual and pain-“ ful pursuit of reasonable opportunities to address these people; and we must “ altogether abandon the care of our present congregations, as it would be ut-“ terly impossible to attend to both, unless we were endued with those extraor-“ dinary powers which ceased with the first propagators of Christianity.

“ It must, then, be evident, Sir, to any one who candidly considers these “ circumstances, that the project of attaching the slaves to the Church of Eng-“ land can never be carried into effect by means of the established clergy at “ present existing in this country. I will venture to add, that it could only be “ accomplished by a distinct and separate establishment; by a sufficient num-“ ber of ministers appointed, I had almost said educated, for the sole and ex-“ clusive purpose of instructing the Negroes.

“ To admonish us, therefore, to engage in this cause, is only stimulating “ us to unnatural and unreasonable exertions, which must ever prove fruit-“ less and abortive.”

I cannot prevail on myself to dismiss this first-cited testimony without saying that, though a perfect stranger to the person and character of the reverend writer, I feel great respect for him, on account of his candid, manly, and intelligent discovery of the true nature of the case. Such I

Perhaps it may be thought that the blame lately imputed to the founders of new colonies, is effaced by this account of the

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know it to be; and entirely agree with him, that the same defence would fairly extend to his brother clergymen, not only in Antigua, but throughout the British West Indies. They have not all thought proper to resort to it, or, at least, not in the same explicit way; but I think the intelligent reader, if he attend to the following extracts, will see that the case is not substantially different in any of the British islands.

#### BARBADOES.

Extract from the Return of the Reverend T. H. ORDERSON, Rector of CHRIST-CHURCH. (Same papers, p. 153. and 154.)

“ There is to this parish a comfortable parsonage, and a large and respectable church, both kept in repair at the parish expense. Divine service is regularly performed every Sunday, and the church doors are open for the admission of coloured persons of every description; and the average number of *coloured persons* attending each Sunday is from *twenty to twenty-five*, who conduct themselves during service with great decency and propriety.

“ I feel it my duty, my Lord, to afford the slaves all the instruction in my power, in the plain practical duties of Christianity; and I believe it is from the constant and regular attendance of the established clergy to their parochial duties, *that sectaries have gained so little footing in this country. But much as the clergy may wish to instruct slaves in their religious duties, little can be done, unless proprietors of plantations will co-operate with them in their labours.*”

Extract from the Returns of the Reverend J. H. GITTENS, Rector of ST. JOSEPH. (P. 155.)

“ The pews of the church are open, *as far as I am informed*, to every colour and description of rational and accountable beings. Occasionally Divine service is attended by *a few slaves*, and their conduct, upon such occasions, is always marked with attention and decorum.”

Extract of the Return of the Reverend W. M. PAYNE, Rector of ST. ANDREW'S. (P. 156.)

“ The church is open to any of the black population that are desirous of attending at the time of Divine worship; *very few do attend.*

“ I have been rector of the parish fourteen years, and *ninety-three* of the slaves have *become members of the Church of England.* In the years 1815 and 1816 none were baptized, although, in those years, they were looking forward to their emancipation, consequently it was to be expected many would have wished to have become Christians. It gives me pleasure, that *no imputation can be cast on us, as there is only one Methodist Meeting-house in the island.* I can assure your Lordship that I am zealous

religious establishments in the old; and were the copying such precedents the only possible alternative to a total neglect

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“ in the cause of religion, and nothing has been wanting on my part, nor  
“ ever shall be, in promoting the pure doctrines of the established church.”

From this and other returns, the numbers of slaves, or coloured persons, mentioned as having become members of the church, are presumably children brought to the clergyman to be baptized. Some of the letters explain, that this is the only ground on which they represent the slaves they speak of as belonging to the establishment; though it further appears from some of them, that the slaves converted by the Moravians and Methodists bring their infant children to the church for baptism.

Extract from the Return of the Reverend G. F. MAYNARD, Rector of SAINT THOMAS. (P. 159. and 160.)

“ I regret exceedingly that I cannot make a very flattering report of the  
“ number of coloured persons baptized during my ministry in this place.  
“ Within a period of twenty-two months there have been fifteen christen-  
“ ings, only one of which was that of an adult; in him alone was it an act  
“ of choice to become a professor of Christianity. *There have, indeed, been*  
“ *many applicants to be admitted within the pale of the church, but all of them*  
“ *so lamentably deficient in the most ordinary qualifications prescribed to them,*  
“ *that I could not conscientiously comply with their request, especially as they*  
“ *had not the remotest prospect of being better instructed in their duty.*

“ The charge of inactivity and indifference, will never, I humbly trust,  
“ be substantiated against those members of the established church who  
“ compose the parochial clergy of this colony; and the cause of their failure  
“ in disseminating the pure doctrines of the Gospel amongst those who most  
“ want its consolations must be sought elsewhere than in their supineness or  
“ negligence. First, in the extreme ignorance, debasement, and depravity of  
“ those on whom they are inculcated. Secondly, in the want of intercourse,  
“ and in the great distance necessarily subsisting between two classes of  
“ society, so totally dissimilar in habits, manners, and opinions. And, lastly,  
“ where there are good principles, in the want of leisure to cultivate and im-  
“ prove them. What better success pretenders to greater sanctity might have  
“ in alluring the simple, and captivating the unwary, I presume not to divine;  
“ but, unless the soil undergo some preparation by early culture, and ignorance,  
“ the mother of prejudices, be in some degree subdued, the seed of religious  
“ knowledge is liable to be choked ere it spring up, and the pearls of divine  
“ truth to be trampled under foot. These obstacles may be removed by eradi-  
“ cating from their minds malignant tempers and vicious propensities, by nur-  
“ turing them with amiable virtues, and furnishing them with that instruction  
“ which they can easily comprehend and readily apply; by teaching them how  
“ to estimate themselves; by showing them what link they form in the chain  
“ of society, and convincing them, that the happiness of the community is in-  
“ separably blended with their own. Then we may, with confidence, look for-  
“ ward to the day, when the savage manners and brutal excesses, which now

of religious institutions, it might fairly be doubted, I admit, as far as the poor negroes are *directly* concerned, whether there be any great difference between them.

“ *deform so large a part of the moral creation, ‘shall not be so much as named among us;’—when regularity shall take place of disorder, docility of stubbornness, industry of sloth, and probity of low and malicious cunning.* With my earnest prayers to Heaven that this godlike object may be speedily attained, and in the hope that your Lordship will pardon the freedom “ with which I have delivered my sentiments, I have the honour, &c.”

If I understand this reverend gentleman aright, he proposes to raise the fruits of Christianity before the tree is planted. The slaves are to be made virtuous, amiable, and elevated characters first, and Christians afterwards.

Extract of the Return of the Reverend JOSEPH HUTCHINS, of SAINT GEORGE'S. p. 161.

“ *There is no slave in Saint George's who is a regular member of the church of England.* Our church has been always open for black people, whenever they choose to attend divine service; but *the slaves very seldom come willingly into church, except when they attend the funerals of their owners or friends.* Many of the slaves are willing to be baptized; but *apparently from no other motive than to be buried in the church-yard.*

“ I rejoice in your assurance, that it is the earnest wish of the Prince Regent that the church of England should not be justly reproached with inactivity and indifference; it may be in his power, under the Divine blessing, to prevent or remove such a reproach by the future wise and pious counsels of his government. *Every humane, liberal, and powerful effort must be made by the powers that be, to eradicate those invertebrate prejudices which never fail to discourage religion and improvement in every quarter of the globe in which the debasing system of slavery has been long established.* Nothing can be done successfully for promoting religion among the slaves, without the general concurrence, approbation, authority, and co-operation of their owners, induced and encouraged by the mother-country, to which they are so loyally attached. All attempts of the most zealous and active clergyman of the church of England would be ineffectual, if unsupported by the laity around them, and by the ruling powers of the island.

“ Our excellent church liturgy cannot be very useful to ignorant creatures who are unable to read. Schools must be instituted for the instruction of the rising generation, who may thus be prepared for their entrance into the established church, and may become instrumental in teaching and converting their unlearned relations. Other means for civilizing and improving the latter may also be devised.”

#### CARIACON.

Extract of the Return of the only Incumbent, the Reverend WILLIAM NASH. (p. 166, 167.)

“ It is impossible to state with any degree of precision, the number of

The slave, however, has a temporal interest in the religion of his master. The bell which calls to public worship may

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“ slaves who have become members of the church of England since my ministry here, unless it be by supposing them attached to it at their baptism, which is, in almost every instance, during their infancy; and may, I believe, be fairly computed at half the population, or about two thousand.

“ Their attendance at church is very occasional. When I remonstrate, they reply, that if they come to church, they must starve, for Sunday is the only day they have to cultivate their gardens; the plea is so reasonable that I cannot oppose it; but I heartily wish their masters would deprive them of it, by allowing them one day in each week to labour for themselves. They have no idea of sacrificing their present interest or pleasure to their duty, and are always ready to make their ignorance an excuse for their vices. If they have no time for instruction, ignorance is unavoidable.

“ That means may be found to facilitate the conversion of the Negroes, I have no doubt; but our excellent liturgy is totally beyond their comprehension; and were we to address our congregations in language which the Negroes could only imperfectly conceive, there is no person of any crudition, or even of a moderate understanding, who, unless his patience were supported by his piety, would bear to hear us. To human beings whose moral feelings and intellectual faculties have been suspended for ages unknown, and at length almost exterminated by an execrable system of oppression; under which, in order to endure existence, it was necessary to suppress every generous sentiment, to stifle every tender emotion, to forget they were men — every consideration that the horror of their situation can suggest, and the benevolence of the Christian religion inspire, is certainly due; and I trust that those habits, which African despotism has induced, will be soon annihilated by the liberal policy of a humane and enlightened age and nation.”

I am not authorized to take the word *African* here as an error of the press for *West Indian*.

#### GRENADA.

Extract of the Return of the Reverend BENJAMIN WEBSTER, Rector of the United Parishes of SAINT PATRICK, SAINT ANDREW, and SAINT DAVID, dated 31st July, 1817. (p. 169.)

“ Although the number of slaves who occasionally attend public divine service in the course of a year, may be very considerable, yet not more than five or six in a parish do actually attend oftener than six times in the course of that period of time, and can therefore be strictly considered members of the established church of England.

“ Sunday is the general public market day in the different parishes throughout the island, and almost the only one on which slaves have an opportunity of bartering the produce of the provision grounds allotted to them by

have some slight and indirect influence even on the great majority of planters who uniformly neglect the summons. It is

“ their masters, for other commodities which they may require during the week ensuing, or vending them, and expending the amount received for them in purchasing articles from the stores or shops of merchants. These markets are generally at their height during the performance of divine service, and being holden on the Sabbath day, little attention or respect is shown by slaves to the religious duties of the day.”

#### JAMAICA.

##### Extract of the Return of the Reverend HENRY JENKINS, Rector of MONTEGO BAY. (P. 172.)

After stating the number of baptisms, the wonderful increase of which in 1816 will be hereafter noticed, he adds, “ Of these, all are of course members of the church of England, though none of them are communicants. Many of them live at a great distance, and cannot therefore attend divine service regularly; but such as do attend are instructed on Sunday mornings immediately after the congregation is dismissed. After prayers in the evening a discourse is delivered, or a lecture adapted, according to the best of my abilities, for the instruction of the slaves and people of free condition.

“ When my pastoral duties call me into the country, I embrace every such opportunity to speak to the slaves on the subject of our moral and religious obligations, as far as a short visit will permit. All this, however, will not have the desired effect on people of a very slow apprehension, unless the master, or some other person in his absence, take the trouble of instructing them from time to time; or a certain number of catechists be appointed for the distant parts of the parish, under the direction of the rector. Our united endeavours, with the blessing of God, would, I am persuaded, be productive of much good to the slaves.”

##### Extract from the Return of the Reverend T. P. WILLIAMS, Rector of CLARENDON. (P. 176.)

“ As rector of a parish containing a population of eighteen thousand souls, and extending over a district of many miles, I have time but little more than sufficient to discharge the common functions of my office, in burying, marrying, and christening, and attending on Sundays my church, which is situated at least ten miles from my rectory; limited, however, as I am with respect to time, I have yet endeavoured to do all that I could. Within the last thirteen months I have twice made known to the principal proprietors and attorney in this parish, my readiness to attend on such properties, for the religious instruction of the slaves, as they would permit me to visit; BUT I HAVE NOT BEEN ABLE TO OBTAIN THE CONSENT OF MORE THAN TWO OF THEM. Happy, however, I am in saying, that I trust I have been able to do some little good, the number of slaves who attend divine service on Sundays having of late increased, and still continuing to increase.

something when the petty despot, amidst his pride and anger, is reminded that there is a God whom other men adore—that

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“ Their desire of religious instruction is great, and to gratify it, I labour “ as much as possible after the service of the morning is over. In this “ parish we are fortunately blessed with no diversity of religion.”

Extract from the Return of the Reverend LEWIS BOWERBANK, Rector of SAINT ANN'S. (P. 179.)

“ It may, however, be right to add, that there are here no dissenting “ chapels or meeting houses, as far as I am able to learn; and that it is my “ belief, that the bulk of Christian slaves within the parish have not even “ heard of the divisions of our church, but that in having been baptized, “ and in professing themselves to be Christians, they consider themselves as “ necessarily forming a part of the established church of England.

“ *For their reception a part of the parish church is set apart; but, when compared with their numbers in the aggregate, it is necessarily small indeed; small, however, as it is, it is by no means generally filled.*”

Extract of the Return of the Reverend JOHN WEST, Rector of SAINT THOMAS IN THE EAST. (P. 177, 178.)

“ About two hundred black people attend the church every Sunday, not exclusively, however, for most of them attend also the Methodist's chapel in its vicinity, some constantly, some transiently. And there are above fifty who have attained so much knowledge of Christianity as to be admitted to the holy communion; but of these very few are slaves. The fact is, in respect to slaves “ in general, that their knowledge of the English language is so very limited, “ that they can derive little or no advantage from their attendance in church. “ They are so conscious of this defect, that when I go to church for the express “ purpose of catechising them, very few will attend, and not one of these “ will utter a word but what has been put in his mouth. How then, it may “ be said, are twenty-six thousand slaves, (the number in this parish) to be “ instructed? This subject has frequently engaged my thoughts, and I cannot “ conceive any other mode than this: let the young Creole slaves be taught to “ speak and read, and at the same time be instructed in the first principles “ of the Christian religion, in public schools established in different parts of “ the parish; and let them communicate what instruction they have received “ in their own way to their African brethren, by whom it is impossible for “ white people to make themselves understood.”

#### NEVIS.

Extract of the Return, and Supplemental Return, of the Rev. J. H. WALKWAYS, Rector of SAINT GEORGE, GINGERLAND. (P. 208, 209.)

“ Impressed with a deep sense of the extreme importance and necessity, “ at the present time, of those exertions in behalf of our excellent establishment, so earnestly and justly recommended by Earl Bathurst to our “ consideration, the clergy of these islands cannot fail to regret the insuperable obstacles that exist (under the present system) to any beneficial result “ from their labours for the advancement of religion among the slaves:

there is a faith which recognises, in the abject despised Negro, a child of our common parents ; a fellow-heir of immortality —

“ though at the same time I humbly trust we shall not be found to have left unperformed any part of our ministry, which circumstances have permitted us to fulfil.

“ *The insuperable obstacles to the advancement of religion among the Negroes, I humbly conceive to exist in the gross state of ignorance in which the far greater part of them are living, together with the total want of any system of instruction, or any means by which that ignorance may be dispelled, and their minds prepared for the reception of religious truth. Need I add, that so long as these impediments to the growth of Christianity among the slaves subsist, they are in a perfectly unfit state to derive any benefit from the labours of the clergy.*

“ Your Excellency will please to observe, that Earl Bathurst intimates, that it is on the exertions of the clergy that the wished for improvement in the above-mentioned class depends; it is, however, evidently superfluous to exhort (as he has done) to ‘ a more active discharge of their duty’ those who, however, zealous in the cause, know to their heartfelt regret (awfully responsible as is the office of a minister of the Gospel) that their endeavours will be unavailing.”

While so many of the clergy of different islands have thus, with a commendable frankness, confessed that they do not attempt to give to any considerable number of the slaves in their respective parishes the benefit of their pastoral labours ; and while others who have made the attempt, as far as the circumstances of the case allowed, acknowledge its total failure ; and while no small number honestly point out the utter impracticability of the work, from causes common to all the colonies under the existing system, one or two of the rectors in Jamaica have boasted of very wonderful recent success in the way of conversion ; and if the administration of the baptismal right to all adult slaves, who come or are brought by their masters to receive it, is sufficient evidence of their Christian faith, the facts they state will certainly justify the boast. There has certainly been nothing equal to it in the world since the apostolic age.

One reverend gentleman for instance, the rector of St. Mary’s, makes his Return under date of the 4th July, 1817, in the following terms: “ During fourteen years of my incumbency from 1801 to 1815, the number of slaves baptised could hardly be estimated at one hundred persons annually.” “ *Towards the end of last year a great anxiety was manifested, and which at present continues, for baptism, both by the slaves and by their proprietors.*”

The latter part of this proposition, *perhaps*, does not mean that the proprietors desired it for *themselves*, but for their slaves ; and if so, it may easily be credited, for I beg the reader to recollect, lest the African Institution should lose its due share of credit in these conversions, that this was the epoch when the Register Bill had stirred up a great spirit of reformation in the colonies, and had produced the before-mentioned act of

that there is a law, believed by our forefathers to come from God, which denounces tremendous future penalties against the merciless and the oppressor.

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the island stimulating the clergy to such labours, and entitling them to a fee of two shillings and sixpence for each baptism. "No compulsion, I believe, (the rector goes on to say) has been exercised by the master; all has been voluntary on the part of the slave; the negroes having freely thrown away their African superstition and prejudices."

What a singular and fortunate coincidence with the new-born eager anxiety of their proprietors to bring them to the font!!! It appears from another of these letters, that "great numbers on the plantations were baptised at the same time." It is to be hoped the drivers were not behind them on these, as on all other musters.

"The population of my parish may be *twenty-four thousand slaves*. I can assume to say *five thousand* have been already baptised. Preparatory measures for the speedy baptism of *the whole* are now adopting. Much I apprehend will be accomplished by the middle of September; I therefore solicit to be allowed till October to transmit my general return. The fee is now established by law at two shillings and sixpence for each slave, and is paid in my parish by the proprietor. Some very few peculiar exceptions cannot be contemplated as otherwise. I am desirous of discharging my duty most fervently; yet I profess but little. I deem *some partial tuition* should be granted to the negro population, to impose on their minds the necessity of a rational conduct; also their moral and religious duties." (Same Papers of 1818, page 198.)

The reader may perhaps suspect that I have sportively taken some liberties with this reverend gentleman; but if he reads the return referred to, he will find that such is literally and fully the rector's own account. Certainly his discharge of his duties must have been fervent enough, if nine months, as his facts and calculations seem to imply, have sufficed for preparing, by his unassisted efforts, no less than twenty-four thousand slaves, chiefly pagan adults, for the sacred ordinance of baptism; but we must, if so, reject all the excuses of his clerical brethren which I have cited as hypocritical pretences, and vile calumnies, both on the poor slaves and their masters. What do the other reverend gentlemen mean by insuperable obstacles in the extreme ignorance and vicious habits of the slave parishioners, and the neglect and opposition of the planters? and where are the difficulties, numerical and geographical, which they allege; or with what face can they pretend want of adequate means, and *pious repugnance to the profaning the baptismal rite, by administering it without previous instruction*, when here is a clergyman, that, in addition to all his onerous duties to his white and free flock, scattered in a most extensive parish, can sufficiently instruct the adult pagan slaves, and prepare them for admission into our national church, and baptise them to boot, at the rate of near a hundred *per diem*; and keep up to it too, for nine months without remission! It is impossible to absolve the 'other

The public disuse of religious rites among men once accustomed to them, the case of colonists born or educated in Eng-

rectors of the West Indies from impious neglect of duty, without supposing, what indeed the reverend gentleman's account of the case seems rather to point at, some miraculous interposition on behalf of the slaves in Jamaica, with which no other part of the West Indies has been in any degree favoured. Here the negroes all with one accord "*freely throw away superstition and prejudice*," while every where else they cling to these bad qualities very obstinately, and require, as we are assured by other reverend gentlemen, long intellectual culture, before it is possible for the most patient and assiduous Christian instruction to prepare them for baptism.

I would not, however, detract from the value of the concurrent unmiraculous efforts of this "fervent" and indefatigable instructor, for his baptisms are worth, by the low appreciation even of the Curate's Act, 5000*l.* It is to be regretted that having done all the work in nine months, his remuneration can go no further; since baptisms alone are paid for.

Though the Jamaica returns afford no instance of conversion comparable to that of St. Mary's, yet, from the other parishes, we have, in the large accounts of baptisms in 1816 and 1817, compared with the very scanty produce of all former years, like proofs of the astonishing efficacy of the Curate's Act, or of its parent, the English Bill for the Registration of Slaves.

The reverend rector of PORTLAND parish for instance thus writes in his Return, dated June 16. 1817 :

" Since the passing of the Curate's Bill I have baptised upon an average fifty or sixty every Sunday; so that with what were baptised previous to the passing of the said bill, the great majority of the negroes in this parish are become Christians, and in a very short time all will be so." (Same Papers, page 180.)

The reverend rector of TRELAWNEY parish has not been less successful :

" Of late," says he, " there has been an increasing disposition among them (the slaves,) to receive baptism; and within the last twelve months nearly three thousand of their names have been registered." (Same Papers, page 181.)

The reader must by this time be curious to learn in what way or mode of operation this Curate's Act has had such sudden and happy effects in the manufacturing of Christians, and members of our holy establishment, in Jamaica. The curates, he may conjecture, have been such able and active men, as to produce this grand revolution in a year, though the rectors, for a century or more, had found any steps towards it quite impracticable. But there is no room even for this difficult solution. Twenty-one curates had been voted and salaried; and perhaps sent for; but not a man of them had arrived.

They may now well be dispensed with. At St. Mary's and Portland, and Trelawney, at least, the work is done. The very call for the curates

land, produces more than negative evil. The morals of the people at large in Christian countries are greatly sustained by

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has put an end at once, as far at least as baptism goes, to the opposition both of masters and slaves.

The most singular part of this extraordinary case is, that this same Curate's Act, removed as suddenly those grand impediments to the baptism of adult slaves, which the consciences of the clergy, as we have seen, in other places, felt to be decisive. There was an end at once to that open profligacy and depravity, and to that before invincible pagan ignorance among the slaves, which induced pious clergymen of the church commendably to refuse to receive them into its sacred pale, and to drive them from the baptismal font. See, for instance, the above extract from the return of the Rev. Mr. Maynard, of Barbadoes.

To suppose that the respectable clergymen of Jamaica all suddenly gave up these conscientious objections, and administered the sacred ordinance of baptism to men utterly ignorant even of what it meant, as well as of the first principles of that holy faith of which, in the case of adults, it involves the very solemn and distinct profession, would be so injurious, to these reverend gentlemen that we are bound to believe this general disqualification for baptism had by some means been removed; and this could only be through some strange and mysterious operation of the Curate's Act on the minds of these poor converts, which we are bound in consequence to believe in, though we cannot possibly explain it.

That there were no ordinary or natural means is clear, for several of the rectors of Jamaica have told us that the slaves had happily no sectarian instructors in their respective parishes; and one of these reverend gentlemen very intelligibly tells us, that he had never exchanged a word with his black converts in general, or had an opportunity of addressing them even from the pulpit, till after he baptised them. "I have encouraged this practice," he says, (that is, the practice of baptising the slaves in church) "by every means in my power; on account of the greater solemnity and impression which it imparts to the baptismal service, and *as affording me at least one opportunity of urging their Christian duties on the slaves baptised.*"—(Same papers, 181.) If one sermon, therefore, would suffice to convert, or to instruct in the nature of the baptismal rite, all the adult slaves of a large Jamaica parish, the *Obeah* men and *Juncrow* men, or magicians, included, and to fit them for admission into the pale of the English church, even that portion of ordinary means were not used in this clearly supernatural case; and yet two of the rectors at least speak without doubt of finishing the work with *all the slaves of their respective parishes* within a year of its commencement.

I must admit, indeed, that one of the rectors seems weak in faith as to these happy supernatural effects of the Curate's Act; for after mentioning his having baptised in about nine months 835 slaves, (not a sixth part of the achievements of the rector of St. Mary's,) he adds, "such a number may

the reflected, as well as the direct influence, of the reading-desk and the pulpit; and as the long-benighted traveller can

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“ appear very great, as it may be supposed that all these could not, within so short a period, be duly prepared to receive this solemn rite. *It is, therefore, allowed that most of the candidates were extremely ignorant, as well of the vows required, as of the benefits received in that sacrament.*”—(Same papers, page 200.)

We must not be staggered, however, by the unbelief of a single individual, when the rest of the reverend rectors were evidently well satisfied of the mysterious change effected in the minds of the slaves throughout the island. No man who reads our baptismal service for adults will believe it possible that they could otherwise have had the face or the heart to go through with it.

There nevertheless appears to me one cause for regretting that the slaves of Jamaica were not prepared for admission into our church by some more ordinary means; because, I fear that not only the Methodists and Moravians, but the Roman Catholics, not having my own faith perhaps in the miracle, may not regard this sudden addition of three or four hundred thousand black members to the church of England with perfect respect. I am the rather led to this apprehension, because I perceive in these same parliamentary papers a return from Sir Ralph Woodford, the governor of Trinidad, the following awkward paragraph. “ *I believe the negroes of that class, (personal or domestic slaves,) have been generally made members of the Christian church. Those that have not, may be considered as incapable, from natural ignorance, of learning those parts of the profession of the Christian faith, a knowledge of which is considered by the church of Rome as indispensable in an adult presented at the baptismal font.*” —(Same papers, p. 211.)

Sir Ralph, however, could not mean that the church of England treats this holy sacrament with less respect. Every churchman who looks into his prayer-book will see the reverse.

I rather incline to think that the authors of the Curate’s Act must have foreseen its supernatural influence; for while they give the rectors collectively a largess of 40,000*l.* for baptisms, they give them nothing at all for instructing, and withhold also the necessary means. These are acknowledged to be the attendance of the clergy on the different estates, which the Curate’s Act accordingly requires, but requires first the masters’ consent, and this the masters, they well knew, would withhold. See the extract I have given from the return of the Reverend Mr. Williams, rector of Clarendon, to which let me now add the following from that of the Reverend Mr. Campbell, rector of St. Andrew’s. “ *I solicited and obtained the permission of several of the proprietors of the large estates to visit the slaves under their care; which I accordingly did, and on every occasion my addresses were listened to by the assembled slaves with a serious and becoming attention. But before I had proceeded far with*

better see how to direct his steps than the guest who has just issued into the same darkness from an illuminated room, so the ignorance of nature is less unfriendly to the moral sense, than the artificial blindness which ensues where the torch of religion has been extinguished.

What infidel among us is so daring as now to dispute these important truths? Who would not shudder, even on temporal views, at the prospects of his native land, were our churches pulled down, and our clergy put to silence? The fall of the state, though a certain, would be a less dreadful consequence, than the utter dissolution of morals. France tried the impious experiment at home; we try it in our colonies. Our course is certainly safer than hers; but is it less affronting to God?—is it less injurious to man?

Where can the influence of religion be more wholesome or necessary than in a land of slave-masters and slaves? and in what private relation can the depravity which results from the overthrow of religious establishments, produce such dreadful effects?

The result of our inquiries on this most important head, is, that the slave is not indebted to the state or government under which he lives, for any means of religious instruction, private or public, individual or general; and that he is prejudiced by the profane neglect of the laws in this respect towards his master, as well as by their still greater neglect towards himself.

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*“ this plan, I found that it was regarded by some as an innovation of questionable utility, and I thought it wiser to defer the prosecution of it until “ the result of the investigation, to which the honourable House of Assembly was pledged, should be known.” —(Same papers, p. 183.)*

I do not know the meaning of the last paragraph, nor what the Assembly may have since done. But that respectable body seems now to be placed, by its rectors and its writers together, in rather an awkward dilemma. All the slaves, say the former, are now *made Christians*; when the slaves, say the latter, are *Christianized*, they ought to be free. The grand objection they make to the alleged precipitancy of Mr. Wilberforce, is, “ *the slave population must be converted ere it is trusted with freedom.*” Is the assembly of Jamaica then prepared for a present emancipation? If so, it is far more precipitate than Mr. Wilberforce, but if not, it must either repudiate its champions or its baptisms. It must maintain that members of the church of England are not Christians; or deny that by becoming such they are prepared for freedom.

And here, perhaps, the reader will conclude that these imputations on the Colonial Assemblies must necessarily terminate; because he will not readily conceive, that in the way of neglect or privation, their injustice to the unfortunate negroes could possibly be carried further.

In regard to religious instruction, however, some of these legislative bodies have an additional charge to answer.

#### SECTION IV.

##### THE EFFORTS OF EUROPEAN PIETY AND CHARITY TO REMEDY THESE NEGLECTS, HAVE NOT ANY WHERE BEEN AIDED BY THE COLONIAL LEGISLATURES, AND IN SOME ISLANDS HAVE BEEN ACTIVELY OPPOSED BY THEM.

It is natural to suppose, that if the slaves in our colonies have not the benefit of religious establishments, they are not affected by any of those legal restrictions by which such establishments are commonly guarded. If they belong to no flock, and are under the charge of no appointed shepherds, they ought, it would seem, to be regarded in the same point of view as the inhabitants of a heathen country, whom all denominations of Christians have an equal right to convert and bring into their respective communions, if charitably disposed to do so.

This conclusion will appear the more reasonable, when we take into the account that peculiarly wide extent of religious liberty, which belongs to our colonial constitutions—a subject, which, as there is reason to think it has been much misconceived in this country, it may be proper briefly to explain.

In England, the national church and clergy are established as such by positive institutions; and all teachers of religion, and assemblies for religious worship, not conforming to the doctrines, ritual, and discipline of the establishment are regarded by the law as irregular and sectarian. They were all formerly prohibited, and owe their present toleration, however ample, to positive acts of Parliament, which have relaxed, in a certain way, and on certain conditions, the prohibition to which they once were subject.

But the case in the colonies, has always been widely different. The ecclesiastical laws of the mother country have nowhere been expressly adopted by the Assemblies; nor have

they ever been considered as tacitly extending to any of our colonies, either ancient or modern.

It is, indeed, a general rule, that the English founders of a new settlement in a rude or unpeopled country, carry with them such laws of their native land, as were in force there at the time of their migration—and when a new colony has been acquired by the Crown through cession or conquest, the King, in the exercise of his legislative power over it, has commonly put it, in this respect, on the same footing with a settlement originally English.

But in both cases the rule has been subject to a very comprehensive exception: “Such parts of the law of the mother country as are not applicable to the local situation, or peculiar circumstances of the new colonists, are not binding upon them.”

This exception, to be sure, is extremely loose: and the colonial legislatures have all omitted, strange though such negligence may appear, to render it less indefinite; yet this vague qualification of the general rule, like the rule itself, had its rise in convenience or necessity.

As civilized emigrants to an unsettled or barbarous region find on their arrival no established *lex loci* to govern them, the laws to which they have already been accustomed in their native country, are naturally resorted to and applied, as laws are progressively felt to be necessary in their new abode: but the institutions of an ancient, great, and highly polished people, must obviously, in many instances, be found useless or impracticable in a newly founded and minute society: common convenience, therefore, and custom arising from it, practically limit in such a colony the use of the laws of the mother country; and that sometimes with a more advantageous, though less accurate discrimination, than positive law might have made.

The Crown, on the other hand, in the case of colonies in the new world that were first peopled by foreigners, and afterwards conquered by this country, which have generally been found by us in a state of imperfect, or merely incipient settlement, has taken a course which has produced nearly the same general effects. Unable satisfactorily to determine which of the laws of England would be suitable to the conquered coun-

try, or unwilling to enter on the arduous task, the King has commonly directed, in the constitutions given to such conquered or ceded colonies, that the laws of England should be the general model of those acts which their assemblies were enabled to frame, as far as convenience might be found to permit; and some English colonies in the new world having been settled by migration and prior occupancy anterior to any such acquisitions by conquest, the customs of those colonies were, in some instances, generally referred to as further modifications of the rule.

Such was the course taken in the first commission issued by Charles II. to Governor D'Oyley, for the government of Jamaica, in 1661.

It was a natural consequence, that in different colonies of both kinds, some varieties of opinion prevailed, and a correspondent difference in customs arose, as to the extent of the applicability of English law, within their respective limits: but in respect of our ecclesiastical institutions, there seems to have been a perfect unanimity. It seems to have been every where supposed, that such parts of our laws and customs as respect the positive rights and privileges of the national church, much more such penal statutes as impose restraints upon sectaries and non-conformists, had no force in the colonies unless so far as they were expressly adopted.

The colonists even thought themselves at liberty to adopt establishments exclusive of the Church of England: for though in those North American colonies, which formed their ecclesiastical institutions upon the Presbyterian or Independent model, all religions were said to be on an equal footing, their opposition to the appointment of English bishops to govern their episcopalian brethren, seems not to have been very consistent with that principle.

In other settlements, the doctrines and ritual of our church were preferred, and in some of them, the support of clergy of the Church of England has been already shewn not to have been wholly neglected; but tithes, the great temporal support of our establishment, have never been paid, nor supposed to be due, in any of our colonies in the new world; though these are a common-law charge which has no where been excluded by any act of assembly.

Where the temporal foundations and pillars of the established church are not to be found, it would have been strange indeed to find those outworks of it, the old penal laws against nonconformists, or the test acts. But these were pre-eminently within the spirit of the general exception that has been noticed, as being clearly not adapted to the original circumstances of our colonies in the West Indies or America; for a dislike to the restriction of those penal laws was notoriously the motive which chiefly induced a great proportion of the first settlers in some of those colonies to migrate from their native land: and it was an early policy of the English Government to encourage foreigners of all religions, but especially foreign protestants, of every denomination, to settle in our plantations.

“ Charles the Second (observes Mr. Long) was taught by “ good sense to discern the expediency of granting toleration “ in these distant parts of his dominions;” and therefore, according to the same historian, he instructed his governors to dispense with the taking of the oaths of allegiance and supremacy by those who should bear any part in the government (the members and officers of the Privy Council excepted), and to find out some other way of securing their allegiance \*; and this very extraordinary indulgence was expressly given “ for “ the encouragement of persons of different judgments and “ opinions in matters of religion, to transport themselves, with “ their effects, to Jamaica, and that they may not be obstructed “ and hindered under pretence of scruples in conscience.”

Afterwards, indeed, some of the penal acts of parliament against Papists were so far adopted in this and other colonies, as to exclude them from sitting in the councils or assemblies, and from holding certain other public offices, by requiring that persons elected or appointed to those offices, should, besides the oaths of allegiance and supremacy, make and subscribe the declaration directed by stat. 30 Cha. II. by which the doctrine of transubstantiation is denied. In some instances, this qualification has been prescribed by the royal commissions and instructions for convoking assemblies; in others, it has been required by the colonial acts. But in both cases, it was plainly supposed, that the religious exclusions or penalties for

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\* Long’s Hist. of Jamaica, Book ii. Chap. 10.

nonconformity, provided by existing English statutes, had no force in the colonies.

The Test Act, 25 Car. II. cap. 2. has in no part of the West Indies been adopted, or held to be in force, though it was anterior in date to the settlement or acquisition of many of our present colonies; and indeed where there are no churches or clergy, the sacramental part of the test would be a requisition which could not possibly be complied with.

The consequence is, that Protestant Dissenters are not less competent than members of the Church of England to be assembly-men, and to hold all public offices in the colonies. In St. Christopher, and I believe in other islands, the qualification of sitting in the assembly is, in point of religion, declared to be as wide as the profession of the Christian faith. "*Every white man professing the Christian religion*, being a "free and natural born subject," &c. is, by express law, qualified to be elected a representative \*: but then he must, by force of the royal instructions, subscribe the declaration in stat. 30 Car. II. stat. 2. on taking his seat, which, of course, indirectly disqualifies Papists.

After these explanations the reader may well be astonished to find, among the numberless oppressions of the slaves in the West Indies, persecutions of those English Protestant dissenters, who for conscience sake have become their voluntary teachers. Yet this opprobrious oppression has been added to the rest; and, but for the wholesome use of the royal negative, would lately, in this liberal age, have been carried to the most cruel excess.

The earliest instance of such inconsistent persecution that I can discover was in the island of Barbadoes, in the year 1676; and to the honour of that truly amiable sect of Christians, the Quakers, their charity and liberality furnished the first opportunity for it, by their singular, and probably then unprecedented attempt, to impart their own religion to negroes.

"Whereas of late many negroes have been suffered to remain at the meeting of Quakers, as hearers of their doctrine, and taught in their principles, whereby the safety of this island may be much hazarded." Such was the preamble of

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\* Act of 1727, No. 71, Printed Laws of St. Christopher.

an act, which proceeded to apply a most effectual remedy to this innovation, by enacting that all *negroes* found at any of those meetings, should, if they belonged to the Quakers, or persons present, be seized and forfeited; one half to the use of the party seizing, the other half to the public. If the negroes did not belong to any of the persons present, they were still to be seized: and a penalty of ten pounds sterling for each negro, might be recovered by the party seizing, from any free person present at the meeting. \* Supposing the value of a negro at that period to be 30*l.*, it was about half as penal, at Barbadoes, to murder him, as to teach him the gospel.

It ought, in justice both to the Quakers, and the lawgivers, to be remarked, that the wording of this act is very creditable, to the principles of the one party, and the ingenuity of the other: for, instead of the ordinary style of West India legislation on these subjects, “negroes or other slaves,” the word “*slave*” is cautiously kept out in every clause, though the description “negro or negroes” recurs, including the title of the act, no less than ten times. The only penal law perhaps in the West Indies, in which the institution of negro slavery is not expressly named, is an act made to prevent the black servants of Quakers from becoming Christians.

The plain consequence is, that free negroes were included in the persecution; and mulattoes, though slaves, were exempt from it. But these seeming defects by no means proceeded from oversight. The causes of this new style are, I conceive, clearly to be found in the generous consistency of these conscientious sectaries, and in the dexterity of the authors of the law; for the Quakers presumably enfranchised the negroes they bought, or put them at least in the situation of indentured servants; but it was felt that an act expressly carrying persecution so far as to sell free men, for attending in a place of worship, might encounter objections in England: whereas the term “negro” might well pass there as equivalent to *slave*; and it was thought better no doubt to let the mulattoes and other coloured persons escape, than to add descriptions which might excite attention, as common designations of the free.

But the manner in which this cruel persecution was thus

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\* Act of 1676, No. 198, P. C. Rep. Pt. III. Appendix, tit. Barbadoes.

covered from European censure, was not more ingenious than the species of persecution itself. The poor Quaker was placed in a dilemma more painful by far than if his own severest personal sufferings had been the price of adherence to his Christian duties ; since he could not promote, in the way which conscience dictated, the religious welfare of his free servant, without exposing him to perpetual slavery. No doubt the remedy was effectual ; and these benevolent sectaries may owe to it, perhaps in part, the great and distinguishing blessing that very few, if any, of their members are to be found in the West Indies.

It may appear strange, that while these severe penalties were imposed for taking negroes to their meetings, on that stale pretext of all anti-christian persecutors, danger to the state ; the white Quakers themselves were not forbidden to assemble together, or laid under any other restraints. If their principles were really thought to be dangerous, safer means than their meetings afforded, of influencing their sable dependents in a way pernicious to the public, obviously could not be wanting.

But this inconsistency serves to mark the true spirit in which the act was framed. The West India assemblies have never, in truth, cared enough about religion, to lay any stress whatever on its interior distinctions ; much less to discourage any protestant sect, at the expense of that full toleration which so much promoted the settlement of their islands ; but the unspeakable contempt in which the poor negroes are held there, inspires a natural disgust at the idea of their being taught to regard themselves as the offspring of the same first parents, members of the same Christian union, and heirs of the same glorious immortality, with their masters. It is a natural result of that irreconcileable opposition of the benevolent spirit of the gospel, to the slavery of the West Indies, which the apologists of the latter vainly attempt to deny. Should the reader feel any doubt whether this has been the true and only source of religious persecution in our islands, I request him to suspend his opinion till he arrives at the close of this section.

The Moravians, that humble and zealous sect of Christians, next entered on this desolate field. They sent missions to the Antilles so early as 1732 ; and prior to 1787, had resi-

dent ministers in Antigua, St. Christopher, Barbadoes, and Jamaica, as well as in Surinam, and the Danish islands.

It is attested, by the unanimous voice of all who have written or given evidence, on the subject of these missions, that the labours of the missionaries have been admirably conducted, and that their success has been of the happiest kind. Their converts have not only embraced the doctrines of the gospel, but learnt to follow its precepts; and while the poor men have in consequence been cheered under the pressure of their peculiar and unparalleled sufferings, by the hope of a happier life, they have become, by the patient self-subduing virtues of Christianity, more useful and valuable to their masters. \*

It cannot be supposed, however, that a private sect of Christians, comprising but a very small proportion of opulent members, and which yet has missions to support in almost every part of the heathen world, could by its own unassisted efforts, maintain permanent establishments upon a large scale in many West India colonies; and as they found it absolutely necessary to individualize their poor ignorant hearers, for the purposes both of instruction and religious discipline, a single missionary obviously could not teach, or preside, over any great number of converts. It may therefore more reasonably create surprise, that their congregations, after fifty-five years of unremitting efforts, viz. at the end of 1787, comprised so many as 16,045 individuals, than appear strange that they amounted to no more.

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\* The testimonies to this effect are so numerous and strong, that it is difficult to select from the multitude such as are fittest for quotation. In the Privy Council Report, Part III. Appendix, No. 2, and in the first volume of Mr. Edwards's History of the West Indies, Book iii. Chap. 4. Sec. 3. very full accounts will be found of the establishment of the Moravian missions, of their good conduct, and success. They are too long for insertion here; but some extracts will be presently given of very honourable and decisive testimonials, comprehending both these, and the missions of the Methodists, which, to prevent repetition, shall be postponed till I speak of the latter.

I will only here cite a foreign witness, Mr. Gaudy, a planter of St. Croix, who speaks solely of the Moravian mission in that island.—“Since the “ Moravians have been established at St. Croix, the treatment of the negroes “ has been more humane. Many of them have been converted to Christianity, &c.; those who are converted behave greatly better than the “ rest. The masters are very glad to have them go to the Moravians,” &c. (P. C. Rep. Part vi. title Denmark.)

Of these, 10,400 were in the foreign colonies: so that there were in the four principal English islands, collectively, only 5,645 partakers of the advantages of the Moravian missions, out of 387,000, which was then about the sum of the slave population of those islands taken together.

That the proportion of converts was no greater, unquestionably arose from want of means in the pious founders of those missions to prosecute their work on a larger scale, and not from want of inclination among the negroes to whom instruction was offered; for in the Danish islands, containing probably not more than 50,000 slaves, the missionaries had in their congregations no less than 10,000; and of the above number of 5,645, the island of Antigua alone contained 5,465, though its share of the general population was only 37,808: while Barbadoes, St. Christopher, and Jamaica together, among 299,192 slaves, possessed only 180 Moravian converts, then the only Christian slaves in the British West Indies. If about one negro in seven had cordially received the gospel in Antigua, it will not be supposed that not one in 1600 of the same people could have been converted, had equal means been used, in Barbadoes, St. Christopher, and Jamaica.

In fact, the places where the number of converts was so large, were colonies in which the Moravian brethren had been most favourably received, if not assisted in their pious work; for we find from the evidence of Mr. Baillie, that the Danish government gave them encouragement, and Mr. Edwards honourably distinguishes the inhabitants of Antigua from the other British colonists by a like praise. \*

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\* Vol. I. Book iv. Chap. 4, Sec. 3, p. 449. I apprehend, however, that the encouragement in Antigua was not more than the permitting to the missionaries the free performance of their gratuitous work on the plantations; but this, from the situation of the slaves, is obviously a species of encouragement highly important and necessary, and which is too often withheld in the British islands. Mr. Gaudy stated, that the masters of St. Croix allowed time to their slaves for the purpose of religious instruction. (P.C. Rep. Part vi. tit. Denmark.) I have never heard that any such allowance of time is given at Antigua; and supposing such a practice prevailed, it would undoubtedly have been taken credit for on the part of that island. If such a practice at all exists, it is quite voluntary on the part of the master.

I am not informed that the Moravians, in the few islands in which they settled, encountered any legal persecution. Perhaps their very minute beginnings, and very slow progress, more even than their distinguishing humility, tended to secure them from it, till the happy experience by masters of the temporal good effects produced by their labours, obtained for them, in spite of prejudice, some favour and protection from leading individuals among the planters.

If these pious labourers had been equal in number to the harvest, and if the islands in general would have tolerated and promoted on a large scale the prosecution of their charitable work, enough perhaps might have been gradually done for the poor slaves in a religious view, as far as the degraded and brutalized condition of the field negroes in general, admits of spiritual culture. But as the Moravians had in fifty years made so very small and partial a progress, and as many generations or new successions of these poor slaves must have passed away before such scanty means of instruction could be improved and extended, so as to afford them any general benefit, it was evidently necessary that other and more powerful efforts of Christian benevolence from without, should supply the shameful want of interior establishments and laws.

Accordingly, missionaries from the religious societies called Methodists, next chose these oppressed and despised heathens as objects of their charitable zeal. Dr. Coke, one of the most active successors of the celebrated Mr. Wesley, arrived in the West Indies, with some assistants, in the year 1786; and within a few years after, Methodist missions were planted in most of our islands.

These new teachers met everywhere, among the negroes whom they addressed, success proportionate to the extent of their efforts, and to such opportunities of exercising their ministry as the planters were willing to allow. In those colonies wherein they had been preceded by the Moravians, they were in general suffered to enter on their pious enterprize without molestation, and found in the white colonists and their governments, neutrality at least, if not positive favour.

On the other hand, where religion was a new guest, and its temporal advantages consequently not known from local experience, they were encountered by the usual prejudices which

naturally oppose the instruction of a West India slave in the breast of his master. It is a striking fact, that they have nowhere met so much discouragement as in the islands of St. Vincent and Jamaica; where, from the circumstances already noticed, scarcely any other means whatever of conveying one ray of Christian light to the slaves existed. Happily the law, as has been shewn, furnished no weapons at first for open persecution; but indirect and disorderly means were in some places resorted to for the discouragement and suppression of these intruders: personal insult, and interruption of their preaching, for instance, were safe engines of private malice, in communities where the popular sense effectually controls the ordinary administration of justice. \*

\* If it were not my plan rarely, if ever, to adduce any evidence but such as comes from the colonists themselves, or their public advocates, I might insert many proofs of such practices; but I will only extract the following passage from the work of a West India planter before quoted, the late Doctor Collins of St. Vincent. The author, who resided more than twenty years in the West Indies, was, as I have before observed, a friend to the slave system, though not to its needless severities; and had published a pamphlet in defence of the slave trade; and Dr. Collins certainly was not a man liable to any suspicion of partiality to persons actuated by religious zeal; but in the laudable design of teaching his brother planters how to reform existing abuses, he has furnished most unexceptionable and direct authority for facts of considerable importance. On the head of religion he does justice to the piety, the integrity, and usefulness of both the Moravian and Methodist missionaries; suggests the good policy of giving them public assistance; and notices incidentally, with becoming censure, the ill-treatment to which they have been exposed.

I regret the necessity of limiting my quotation of his candid and judicious remarks to the following extract: — “Indeed, the probability of the good effects of religion hath not altogether escaped the minds of our own planters; for there have not been wanting some virtuous men among us, who, at various periods, have made attempts to impress their slaves with the ideas of Christianity: but these efforts were neither very general, nor long persisted in; being commenced without experience, perhaps with a zeal too languid for the end proposed, being *accompanied with the ridicule of others of the society, who neither hoped nor wished their negroes to be better Christians than themselves*, and not followed with the immediate effect which impatience expected, the attempt was abandoned, under the persuasion that negroes were beyond the possibility of a reform.

“Further experience, however, has proved that this judgment was erroneous: for new attempts of the same nature have been made, with better success, by those who were more competent to the undertaking.—I mean the Methodists and the Moravians.

By such means and by menaces, the Methodists were in more than one colony greatly discouraged; but, through patience,

“ These missionaries, in many instances, themselves but little elevated above the meanest class in society, supplying by the energies of zeal the defect of education, have found means to attract to their lectures very numerous congregations in many of the islands, among whom are to be found some proselytes imbued with a true spirit of Christianity, so far as the penury of their faculties enable them to comprehend its dogmas. The greatest proof of this is exhibited in the regularity of their lives, their respect of their pastors, and their pecuniary contributions for their services: for religion, surely, must have made some progress in the minds of men who part voluntarily with their scanty stores, whilst we find so many, in this and other countries, who elude, by every art of chicane, the payment of legal ecclesiastical dues.

“ It is not to be mentioned, without regret, that these missionaries, who devote themselves to so arduous a task, in a climate universally found to be unfriendly to health, far from receiving their establishments from the legislatures of the different islands, or meeting their rewards in the acknowledgments of individuals, *have frequently to contend as much against the prejudices of the masters as with the ignorance of their slaves*; for it has been generally held, that their purpose is to disseminate rebellion among the negroes. This has been often asserted, and with confidence too great to be supposed to require any other evidence.

“ That men labouring in an arduous vocation, *under discountenance, frequently under derision and insult*, should sometimes feel the irritations of nature, and, in the ardour of their resentment, inculcate precepts, such as have been imputed to them, is not indeed impossible; for, in human nature, there is a disposition prompt enough to avenge unmerited injuries, by such means as the sufferer possesses: but I know no well attested instance of the crime, such as the charge implies, having actually happened: and, I believe, there is not on record a proof of any overt mischief having ensued from the incendiary labours of the missionaries. On the contrary, candour and justice both oblige me to say, that I look upon their services as being highly useful to the colonies.

“ We have seen them erect places of public worship out of the funds of the society at home, by whom they are subsisted, or with the eleemosynary contributions of their flocks, *without any aid, as I before observed, from the colonial legislatures*, where the holy service is performed with a due degree of solemnity and decorum to congregations too numerous to be contained within their walls, all people of colour, decently dressed, who resort thither from distant plantations, whenever a remission of labour admits of their absence.

“ The consequence of these meetings has been very salutary, by their influence on the manners of the negroes, so as to render them less prone to theft and drunkenness than they used to be; and, in no respect whatever, have I found them less obedient or laborious.” (To this passage the author has subjoined the following note.) — “ *I hope I have been misinformed in the following disgraceful anecdote, though coming to me from*

and quiet perseverance, they, like the Moravians, were enabled gradually to vanquish prejudice, and to obtain in several islands a firm and peaceful establishment. Barbadoes was to them a fortunate exception, however unfortunate for the proprietors and the slaves. If there had been a single Methodist teacher in that island in 1816, he and the society that sent him there, would inevitably have been accused of instigating the insurrection of that year; and he might probably have been arrested as a traitor, tried by a West Indian tribunal, and condemned for that strange crime, however incredible it is to every dispassionate and rational mind. But happily there was no Methodist or other sectarian teacher to be the scape goat of the sins of oppression on this occasion. The planters, aided by the clergy of the establishment, and the low white creoles, both peculiarly numerous there, had long before effectually crushed the Methodist mission at its birth; and the other societies had not afterwards ventured to enter on a field in which the barriers of paganism were so well defended, both by temporal and spiritual arms.

As some of my readers may perhaps consider this as an imputation on the reverend rectors of Barbadoes, whose previous failures in, or disclaimers of the work of instructing these poor pagans in Christianity I have already so fully shewn from their own public returns, it may be right to observe that the same decisive evidence attests not only the fact that the Methodists had been got rid of, but shews that the clergy take credit for the work; and I will subjoin two or three further extracts to the same effect.\*

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*"authority too respectable not to challenge some degree of belief. In one of  
"our sugar islands, (which, for its credit, shall be nameless) the white inhabi-  
"ants are without a church, or any place of regular public worship, and have  
"been so for the last twenty years. In one of the towns of that island, a very  
"decent chapel was built by the missionaries, with the assistance of their well  
"frequented black congregations. One day, during the divine service therein,  
"a party of persons, calling themselves gentlemen, mostly military, made a  
"gallant attack upon the audience, and, after dislodging the minister from the  
"pulpit, proceeded to other acts of outrage too scandalous to be detailed."* (Practical Rules, &c. I presume by *military* we are here to understand the Colonial Militia, p. 217 to 220.)

\* In 1811, Mr. Francis Hallet, the only Methodist missionary then in Barbadoes, made a return to Sir George Beckwith, the then governor, in obedience to his excellency's mandate, as follows: "The Wesleyan Methodist Society in this island is composed of thirty persons, eleven of whom

Whether all the incendiary language of the Assembly and planters, in their abuse of the register bill, would have sufficed to produce the Barbadoes insurrection, if the slaves, or any considerable number of them, had been previously instructed by teachers of any church or sect, in the peaceable and self-subduing doctrines of the Gospel, I presume not to decide; but it is well worthy of remark, that these events have occurred since the abolition, only in two British colonies, in both of which the religious instruction of the slaves had been pre-eminently neglected and discouraged, and where missionary labours had either been wholly wanting, or prosecuted on a scale too minute to have had any material effect on the character of the black population \*; while in colonies where the slaves have been extensively the objects of such labours, interior peace and security have prevailed without interruption, during the whole of this revolutionary age.

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are whites, thirteen are free persons, and six are slaves. "I sincerely regret that deep-rooted prejudice impedes the progress of the mission in this island; a mission which, however it may be represented, has for its object the best interests of mankind." (Papers of 12th July, 1815, p. 14.)

That these "deep-rooted prejudices" of the white population, and the vexatious and violent opposition they produced, not only impeded the progress of, but in two or three years effectually crushed the mission, further appears from the returns, dated July 2. 1817, of the Rev. Mr. GARNETT, rector of Bridgetown, the capital, of which the following is an extract: "We have no sectaries in this parish. " There is indeed in Bridgetown a meeting-house for Wesleyan Methodists but they never gained much ground, and have for some time been so much on the decline, as not to have had any resident minister for the last three or four years." (Papers of June 10. 1818, page 153.)

From the extracts before given, and from others of these returns, not cited, it appears that no sectarian teachers had in the other parishes of this island at all interposed between the black population and the established clergy, who for the most part speak of the fact with satisfaction, alleging it to furnish a proof that *they themselves have not neglected their sacred duties.* How it proves this point, indeed, it is not easy to discover. Certainly not by any inference that the main field of sectarian labours, the enslaved and pagan population, had been in this colony preoccupied and cultivated by themselves; for this, as I have shewn, they expressly disclaim. Their concurrent testimony, however, shews that the insurgent slaves of Barbadoes, in 1816, were clearly under no sectarian influence, and were as ignorant of Christianity as any slave masters could possibly wish.

\* For the case of Demerara see p. 212.

The Methodists have had almost in every colony at first to encounter much opposition from individuals, and to sustain that most trying species of persecution which arises from the general ill-will, obloquy, and contempt of the society in which we live; for in the West Indies white persons constitute in effect the whole society to every civil purpose.

And here I conjure the pious and zealous friends of that established church to which I have the honour to belong, to attend dispassionately to the evidence I have before cited, and not to suffer themselves to be misled by their natural prepossessions, and by the craft of the colonial advocates, into a notion that feelings like their own had any share in this popular opposition. From an insidious policy, to which I will not give, though merited, a harsher name, the enemies of the missions now affect an anti-sectarian zeal, and would persuade the pious members of the establishment that the question is, whether dissenters, or irregular teachers claiming to be within the pale of our church, shall be preferred to her learned, prudent, and venerable clergy. Far different indeed is the conflict of opinions and feelings on this subject in the colonies. So different, that were I to name the colonial proprietors most attached to our church establishment, and who are, or would be in this country the most jealously tenacious of its interests and exclusive privileges, they would be found chiefly among the few who have actively encouraged the missions, and even employed sectarian ministers to instruct their slaves; and for this good reason, avowed, in point of fact, as I have shewn, by the most respectable of the beneficed clergy in our islands, that regularly ordained clergymen, where any such are established, have not time or means for the purpose. Whether the other impediments arising from the ignorance of the slaves, which so many of the rectors have alleged, could be surmounted, was not the question. The experiment could not be tried.

The facts, in short, which I have already proved from conclusive evidence clearly shew that the question in the West Indies is in no degree between churchmen and dissenters, but between Christianity and Paganism; and let me add, between the lowest intellectual and moral degradation of our species

on the one side, and the highest elevation of the human soul, that of Christian light and Christian virtue, on the other.

If, however, any man can read the evidence I have abstracted, and still give ear to these artful suggestions, I beg him to advert to the notorious fact, that a large proportion of their authors, and of the colonial opponents of the missions in general, are not themselves members of the church of England.

Of the emigrants from Europe, by whom the white population, especially in our new colonies, is chiefly supplied and kept up, a great majority are from Scotland and Ireland, and chiefly in consequence members either of the Presbyterian or Roman Catholic church; and as to a great part of the white colonists, born and brought up in the West Indies, I am at a loss for any criterion by which their religious classification can be fixed. Many of them, I believe, have rarely been in a place of worship in their lives; and no small portion of them, in islands that had no resident clergyman, have probably never been baptized. Nor can much blame be on this account imputed to them or their parents, when we consider that they must have made a sea voyage for the purpose, or brought a clergyman from some other colony at an expence which they could, perhaps, not afford.

In most of our old islands, indeed, as I have shewn, such a sad want of Christian institutions does not exist; and there, the attendance of the white colonists in the church might furnish a presumption of their belonging to the establishment. But unless the case is much altered, even this evidence would not in general be found; and especially among those who were the most adverse to the introduction of Christianity into their plantations.\*

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\* I recollect an occurrence during my residence in St. Christopher, so illustrative of this remark, that I cannot resist the temptation of giving the anecdote here, though it is rather of a ludicrous cast.

Being on a visit at a part of the island distant from my home, in a Catholic family, I went alone on a Sunday morning to the parish church. On entering it, I was surprised not to see the rector in the deak, and only two persons, or three at most, in the pews; for the bell had been long ringing, and the hour of service was come. I stepped back into the church-yard, and there soon met the rector, and observed to him that I had probably mistaken the time, as his congregation had not arrived. He was a little embar-

Under such circumstances, zeal for the establishment, even in colonies that are by law within its pale, would not well account for an intolerance of sectaries, except from the acknowledged fact that the rectors did not, while the sectarian teachers did, tacitly rebuke the masters, and disturb their consciences, by attempting to make Christians of men whom they treated, and were determined still to treat, as brutes. It is but just, however, to the Leeward Islands to say, that the spirit there was neither violent nor lasting; and has now I believe nearly quite subsided.

But what are we to say of this pretended church jealousy, and fear of sectaries, in colonies where Popery or Calvinism constitute the prevailing faith, and where our church is not only destitute of churches and clergy, and revenues of every kind, but of all claims to any exclusive privilege by law? How happens it that the Catholic planters of Trinidad, and the Dutch and Scotch Calvinist Presbyterians of Demerara, Essequibo, and Berbice, are as jealous and intolerant towards these only teachers of slaves, as even the rectors of Barbadoes? Surely the Guiana planters should not defame their own professed faith by alleging that Calvinistic ministers, as such, are unfit to be trusted among their slaves. Whether the Lieutenant-Governor, being a Scotchman, is a Presbyterian, I do not know. I know only by general

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rassed; but told me that though the attendance was always, he was sorry to say, very bad, he had expected a much larger one that day, and would, therefore, wait awhile, "*for it is well known,*" added he, "*that I am to preach against the Methodists;*" meaning the Methodist missionaries, who had not very long before first arrived in the island.

The old gentleman, not unnaturally, thought that this subject would be attractive to his white parishioners, who were almost all planters, and then generally adverse to the missions. But he was disappointed, and had at last the mortification of addressing a congregation not exceeding half a dozen persons, among whom there was neither proprietor nor manager, nor any slave owner, I believe, except himself and the clerk, and certainly not a single slave; though I remember seeing a negro peeping in at the door, who was probably in charge of his horse.

All his eloquence, I confess, was lost upon me; for of what I supposed with him to be Methodist doctrines, I then thought sufficiently ill; but rejoiced that a religion which gives the cheering hope of a happy future existence, was in any of its forms at length offered to the slaves.

uncontradicted report that he is, what a West India governor certainly ought not to be, a sugar planter, and deeply interested in the existing system of slavery, and that too in its worst and least corrigible field, Demerara, over which he presides; but as in that public character, he calls Calvinistic teachers sectarians, and brands them as such with the charge of hostility to the establishment, I am a little curious to learn by what means the Dutch church has since the capitulation been dethroned, and the church of England established in its stead. Certainly it has not been, I regret to say so, by any introduction of our own orthodox clergy, or by any provision yet made for their support. The same official letter to which I allude shews, that there is only one church of England living in all the vast extent of the government, being, if I am not misinformed, at least a hundred and twenty miles in one frontier line, and which comprises no less than 77,376 slaves by the last returns, exclusive of the free population.\* It appears also from Governor Murray's report that the Dutch and Scotch churches are in this respect on a par with the English.† The clergy of the three establishments therefore, so to call them, may, if they choose to have separate provinces and hearers, have each little more than 26,000 in his flock, spread over a district, the base of which is forty miles, and the interior range indefinite.

"A great zeal, says the Governor, "will be necessary (in the clergymen of the establishment to be sent to that colony) to enable them," (to do what?—to convert 77,000 Pagan slaves? No, but) "*to make head against the sectaries they will find themselves in practice opposed to!!*"‡ Who would not suppose that the vast colonies of Demerara and Essequibo had been invaded by a whole host of missionaries, who were bearing down all before them, and whose efforts were directed to the subversion of our established church? whereas, the whole complement now appears to be (and I conclude it was not larger in August 1817, when the Governor wrote) *two* Methodist ministers, and *two* sent out by the London Society for missions; the former professing to hold the doctrines

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\* *Papers of June 10th, 1818*, p. 163-4. † *Ib. p. 163.* ‡ *Ib. p. 164.*

of the church of England, and the latter agreeing in discipline, I presume also in doctrines, with the Dutch Calvinist church.

“ *To make head against them!*”—why if the men had wings, and free access to all the estates in the government, and could preach through every hour of the twenty-four, and every day of the three hundred and sixty-five, they could not dispute with new comers a tithe of the spiritual ground. If they were all turned into the Governor’s own plantation, where I presume there is no teacher to “ make head” against Paganism and brutal ignorance, (for if there had, he would hardly have written such a letter without noticing the fact), they would perhaps find full enough to do there.

And after all, what is the opposition of these sectarians to our establishment when brought into local contact with it? The clergy of our islands tell us that the Methodist converts attend the national church where there is one, (I believe they are the only slaves, generally speaking, who do so), and bring their children to be baptized in it.\* Nor are these poor ignorant people at all aware of any of those dissensions or schisms which exist in the Christian church. The simple elementary instruction that is given to them by missionaries of whatever denomination, does not extend so far as those points at which European churches and sects divide; nor can any conceivable motive be assigned for that opposition or “ making head,” of which Governor Murray professes to be so much afraid. Sectaries here, may be suspected of hostility to the church for the

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\* See the extract of the Rev. Mr. West’s return, p. 225. “ I believe,” says the Rev. Mr. Campbell, of St. Andrew’s parish, Jamaica, in his return, (Papers of June 10th, 1818, p. 182.) that most of the converts made by the Methodists and other sects apply for baptism to the regular clergy. “ Many,” (says the Rev. Mr. Kerie, rector of Basseterre, St. Christopher, same Papers, 207.) on their applications to me to be made Christians “ were “ probably adherents to the persuasion of the Moravian and Methodist “ missionaries.”

“ The same negroes,” says the Rev. Mr. Collins, rector of St. Phillips, Antigua, “ who from fashion attend the Methodist and Moravian meetings, attend also the regular church.” (Same Papers, p. 146.) Many other testimonies might be cited to the same effect.

sake of seducing her members to their own standard, or from revolutionary views to which our loyal church establishment stands opposed ; but neither of these motives can have any place in colonies where the poor objects of proselytism belong not to the church, or to any other Christian fold ; and where civil authority leans in no degree on the altar for support. The slaves, like animals *feræ naturæ*, are abandoned to the spiritual chase of all who think them worth reclaiming ; and there can be no hostile rivalry where there is no competition.

Having thus shewn how peculiarly destitute of any ordinary or specious pretext the spirit of bigotry and persecution in the colonies is, when opposed to the instruction of the slaves, and what strong grounds there are to presume that no sincere dislike to sectaries, as such, but an anti-christian dislike to the religious instruction of these poor oppressed Pagans in any form, is the true motive of hostility to the missions, I must, before I proceed to narrate the persecutions, under colour of law, to which the Methodists and other missionaries have been subjected in certain colonies, enable the reader to judge from their past conduct, and the effects of their labours, whether such treatment was provoked. No adverse charge has been proved, or credibly or intelligibly alleged against them ; testimonies in their favour abound wherever they are settled, and in justice to the pious and charitable men who have laboured in those dangerous fields, I shall subjoin a few extracts that are at once the clearest and the most compendious. \*

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\* " Missionaries have been sent out from England by private persons, " who, I understand, have had great success, particularly in Antigua. The " missionaries are chiefly, if not wholly, Methodists and Moravians : their " success, I believe, must have been owing to the earnest and discreet " zeal wherewith their attempts to convert have been made." — (P. C. Rep. Part III. tit. Grenada and St. Christopher, A. No. 20. and 21. Evidence of the Agent of those Islands in 1788.)

" No missionaries have been long settled in this island. About five " years ago the sect of Moravians built a house in Basseterre, and one of " them hath resided there since that time. There is also a Methodist " here, who came about two years ago, and has established a meeting house " also in Basseterre : he also preaches in various parts of the island. Their " success among the negroes has been tolerably good, and pretty general ; " and the congregations, particularly of the last, are in general very numer- " ous." (Same Rep., Part, and title Answer of the Council and Assembly of St. Christopher.)

## SECTION V.

## OF THE OBSTACLES WHICH HAVE BEEN OPPOSED TO THE RELIGIOUS INSTRUCTION OF THE SLAVES; AND OF THE MEANS OF PROMOTING IT IN FUTURE.

I MEANT not to dismiss the very important subject of religious instruction without offering some further information as

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“ Great advantages to the interests of the planters have arisen from the labours of the Moravian missionaries in the island of Antigua.” (Same Rep. Part III. tit. Barbadoes, A. No. 18. Evidence of the Agent for Barbadoes.)

“ Q. What has been the attention paid to the religious instruction of the slaves by the regular clergy, before and since the efforts of the Moravians and Methodists?

“ A. I went two or three times myself to a Methodist meeting; and their instructions were to the slaves, to be attentive and obedient to their masters, and gave them a good deal of advice. As to the regular clergy, I never knew any particular attention that they paid to the slaves.” (Com. Rep. of 1790, p. 355. Evidence of Alex. Willock, Esq., 56 years a resident planter of Antigua.)

“ The committee having considered the answers returned by the said agents for the island of Antigua, touching the several heads of enquiry transmitted to them, and the evidence given by them and by Dr. Adair, respecting the said island, directed a letter to be written to the said agents, desiring them to procure from any planter, whose negroes have been converted by the Moravian missionaries in the island of Antigua, the fullest information of the effects produced by such conversion, with respect to the behaviour of such negroes, and in return received, through the medium of the said agents, the following answers from Mr. Bertie Entwistle and Mr. James Gordon, *viz.*

“ Mr. ENTWISLE.—After a residence in the West Indies for more than thirty years, and from having had under my care and direction upwards of 2000 slaves for full twenty years of that time, I think I may venture to give you the information which you require, as to the effects produced on the morals and on the behaviour of those slaves who attend the meetings of the Moravian preachers, and other missionaries, for inculcating principles of religion amongst the slaves in the colonies. And I must say, in justice to the good conduct of many of those missionaries, for I conceive that example operates on their minds more powerfully than precept; that those slaves in particular, who do attend such meetings, are become more decent in their manners and dress, and have acquired higher notions of what is right, and more detestation of what is wrong; which favourable alteration in them has had its good effects on those

to the West Indian missions, planted and sustained by religious societies in the mother country, and the great benefits, they have produced in places where they have been favourably

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“ slaves who do not attend the meetings, from the prevalency of example. “ And from hence I will venture to pronounce, that the slaves in general “ have improved in their morals and in their behaviour, by the example “ and by the precepts of those missionaries. P.S. I have *encouraged* those “ missionaries so far as to allow three places of meeting on the different “ plantations under my care.”

“ Mr. GORDON.— My opinion perfectly coincides with Mr. Entwistle; “ and if the negroes are suffered to proceed in the same way, under the “ Moravian missionaries, their morals will be much improved: but the “ negroes do not confine themselves altogether to the Moravian meetings, “ but many attend the established church, and *they seem not to comprehend that there is any difference in opinion respecting the church's religion.*” (P. C. Rep. p. 3. tit. Antigua, detached Pieces of Evidence.)

“ Q. Have the Moravians and Methodists applied themselves to the “ conversion of the negro slaves in the island of Antigua?

“ A. Both the Moravian and the Methodist preachers have applied “ themselves very strenuously, and with great success, in the conversion of “ the negroes in that island; and as they have built proper places to hold “ their meetings in, all the slaves are encouraged by their masters to “ attend.

“ Q. What has been the general effect on the slaves who are converted?

“ A. A more decent deportment in their behaviour and religious attendance; and most of them are become Christians.” (Com. Rep. of 1790. p. 318, 319. Evidence of Thomas Norbury Kerby, Esq.)

“ In addition to what I had the honour to mention to your Grace on “ the subject of the negroes in these colonies, I beg leave to observe, that, “ besides the established clergy of the islands, there are Moravian and “ Methodist ministers settled in all of them, for the purpose of affording “ moral and religious instruction to the negroes, and their congregations “ are very numerous.

“ To evince to your Grace how successful these missionaries have been “ in their labours among the Leeward Islands, I will endeavour to procure “ an exact account of the number of negroes who have been admitted into “ their congregations, and transmit to your Grace as soon as it can be “ obtained.

“ The sect of Moravians appear to be well calculated to gain the affections of the negroes, and thereby to instil into their minds the principles “ of Christianity; and I have observed, that the negroes of their communion are more decent and orderly in their behaviour than any of the “ rest. I have, for some years past, ordered some sugar or rum to be given “ annually by every estate under my direction in this island, to the missionaries, as a small gratuity for their attendance upon the negroes, and the “ practice has been followed by many others, though it has not yet been

received. I meant also, as I have intimated in the preceding section, to give some details as to the opposition they have met with on the part of the slave owners in general, and of the actual persecutions which the pious missionaries have sustained in some colonies, even by authority of the local legislatures and governments. It seemed to me necessary to shew how unmerited and wholly unjustifiable these persecutions were; for though they have generally ceased *since the era of the Register Bill*, the spirit which gave birth to them is still active; and the pretences on which they proceeded, are still propagated with a rancorous assiduity; and may, if not repelled, have a pernicious influence on our public councils, in regard to the reformations expected to take place by the aid of the mother country, or the authority of law.

But I am unexpectedly relieved from the necessity of long

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“ general.” (Papers of 1804, Ho. Com. tit. Leeward Islands, H. 83.) Letter from President Thomson, of St. Christopher, then Governor of the Leeward Islands, to the Duke of Portland.)

The following is an extract from the minutes of the General Council and Assembly of all the Leeward Islands, convened at Saint Christopher, in 1798.

“ Resolved — That it is impracticable, if it were even prudent, to endeavour to compel the slaves in these islands to *adopt and conform themselves to any religious establishment*; but that they may be brought gradually to “ a considerable degree of religious knowledge, by attention on the part of “ their masters and the clergy, evidently appears from the great success “ that has attended the pious exertions of the Moravian and other mission, “ aries in the several islands of this government, whose mode of instruction “ and discipline seem to be particularly adapted to the minds and capacities “ of their hearers.” (Papers of 1804, Ho. Com. 63. H.)

The practical conclusion drawn from these premises, and which forms a part of the meliorating act of those colonies, is, that masters are required to permit their slaves to attend the chapels or places of worship held “ by the regularly established clergy of any tolerated religious sect in the Leeward Islands,” a description evidently pointing at the English missionaries from the Moravian and Methodist societies. (See the Act, sect. 26. *ubi sup.* p. 24. H.)

It would surely not be rational to believe that teachers of the same sects, deputed by the same English societies, whose missionaries have conducted themselves thus laudably in every colony from which we have any public evidence on the subject, gave any reasonable offence to the ruling powers in Jamaica, or St. Vincent, where they were persecuted by the ruling powers; but should this be doubted, I refer to the testimony of Dr. Collins as to the latter island, *supra*, p. 240-1.

detaining the reader on these branches of my subject. The defence of the missionaries has happily fallen into better hands. I have just now received from a friend the very valuable pamphlet recently published by the Right Honourable Sir George Rose, "*On the Means and Importance of converting the Slaves in the West Indies to Christianity.*" \* And I find this important subject treated by him with so much judgment and intelligence, and in so excellent a spirit, that I cannot contribute better to the great objects we have both in view, so far as relates to the defence of the missions, and the future religious interests of the slaves, than by referring my readers to that work; more especially as the views of this gentleman, who is himself the hereditary possessor of West India property, will naturally be received with greater confidence than mine. Had I seen his pamphlet sooner, a part of the last section might have been spared; but as it is already printed, and contains some information and remarks which I deem important, not comprised in Sir George Rose's work, probably because not within the scope of his limited plan, I will not now lose time by those retrenchments which might otherwise have been properly made.

For the justification of the missions of the Wesleyan Methodists, or for the honour of that pious and loyal sect, and of the Moravians, nothing need be added to the facts or arguments of Sir George Rose; and though the missionaries of another charitable society, objects of the same malignant calumnies in which the followers of Mr. Wesley were involved, are not expressly included in this able and generous defence, their case might perhaps be safely rested on the facts and arguments contained in it. The accusers are the same, so are the manifest motives of accusation; and the same utter incredibility attends the charge of seditious and revolutionary views in the teachers of Christianity to these helpless fellow creatures, to whatever communion they belong. The reason, I apprehend, of Sir George Rose's not expressly noticing the merits of the London Missionary Society, was, that the conduct of their missionaries was unknown to him; as they have no estab-

blishments in those islands with which he is by property connected.

The abettors of oppression and irreligion in the colonies, however, are not, I fear, to be turned by any arguments, or any authority, from their insidious purpose. They know too well that the spiritual friends of their degraded and despised bondmen, cannot be friends to that cruel and brutalising system which they are inexorably resolved to maintain. They know also that the only honest prejudices in this country which they can hope to enlist in their service, are those which, from unfortunate events in our history, have associated the ideas of religious zeal and political disaffection. They are determined, therefore, in defiance of truth, justice, and probability to persist in charges against the charitable and pious teachers of their slaves, which more respectable men of their own party have disclaimed and contradicted. They have even the effrontery to impute those ordinary and natural effects of colonial slavery, insurrections, though never so rare as since the establishment of the missions, and absolutely unknown where their progress has been extensive, to the instigation of the missionaries. The insurrection of 1816, at Barbadoes, was ascribed to them here for a while, till it was found that at, and long prior to the event, there was not one of them in the island. The late insurrection at Demerara was also publicly and confidently charged at first against the Methodist missionaries, though it appears that the teachers of that society who were taken into custody, were immediately after discharged by their enemies on the spot, from despair of finding any colourable pretence against them; not more than two of their twelve hundred black converts having been found among the multitudes of negroes taken up on suspicion, and even against these, no proofs of guilt having been found.

The only two other missionaries in that very extensive colony, those of the London Society, were arrested, it seems, on the same most incredible charge, and their fate while I write is unknown. Great indeed and wonderful must have been the force of truth and innocence if they have escaped; for they were to be tried by their known enemies, armed with the powers of martial law, and sitting in a place where prejudice and terror were most formidably arrayed against them. Mean time

their guilt has been and still is proclaimed most industriously throughout this country, as if it were already incontrovertibly established. Nay, it has been audaciously imputed by a hundred prints, not only to them, but to the Methodists and every class of men among us, supposed to be zealous for Christianity, that, under pretence of teaching the Gospel, they have excited the poor ignorant negroes to sedition, insurrection, and massacre.

Under such circumstances, it may be thought unnecessary, perhaps, but not, I trust, improper, that while I suppress the history of legalized persecutions, which, I trust, will not be renewed, I offer two or three additional remarks and facts by way of further defence against these false and insidious clamours.

Nothing more preposterously unnatural can be imagined, than that an Englishman of any description, when resident in a British West India island, should wish to excite insurrection among the slaves, except the idea that Christianity, in any of its forms, should be chosen as the instrument for that purpose. A late learned and truly excellent prelate of our church has shewn that the Gospel loosened the bands of slavery in the ancient world\*; but this was effected by its influence on the government, and on the master, not on the slave; and in what part of the earth was it ever the cause, or even the pretext, of a servile insurrection? The enemies of Christianity have not till now, I believe, invented such a calumny; and it is notorious that in the West Indies insurrections among the slaves have been frequent, and fatal in proportion to the measure of pagan ignorance that has prevailed.

Schism, in alliance with enthusiasm, has indeed been sometimes made an engine of sedition in Europe; and so, as we too well know, have irreligion and atheism also. But the seditious instigators have acted upon motives which can have no existence in a West India society; and their instruments have been free persons, or at least a people greatly elevated above the political and intellectual condition of the slaves in the British colonies.

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\* The Beneficial Effects of Christianity on the Temporal Concerns of Mankind, by Dr. Porteus, late Bishop of London, section 1. See also the testimony of Mr. Gibbon, before referred to.

There, no powerful religious establishments, connected with and supporting the government, can be supposed to present a political object of hostility to the disaffected, or to provoke sectarian dislike; while the enslaved negro, a stranger alike to civil and theological ideas, is too low in the scale of civilization to be excited by schismatic doctrines to a hatred of church or state. To suggest the contrary, is to take a fraudulent advantage of those misconceptions to which Europeans, who have never visited the West Indies, are naturally exposed on these subjects. The truth is, that even the best instructed of these poor bondmen scarcely comprehend that the religious distinctions among Christians, on which these affected suspicions turn, have any existence; much less suppose them to be of any importance.\*

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\* In an extract before given from the Privy Council Report, it appears that the long-instructed Moravian converts of Antigua are aware of no difference between their teachers and the Church of England. "The negroes do not confine themselves altogether to the Moravian meetings, but many attend the established church, and *they seem not to comprehend that there is any difference in opinion respecting the churches' religion.*"

*M. Malouet*, in his account of Surinam, seems to regard it as one cause of the absence of Christianity among the Dutch slaves, that the ministers will not baptise an adult, unless he can distinguish the differences between the Protestant and Catholic tenets, "Il faudroit, qu'il fût en état de bien distinguer en quoi la croyance de la secte à laquelle il se présenteroit, diffère de la croyance de l'église Romaine," &c. (Mémoires sur les Colonies, tome iii. p. 182.) And the same author elsewhere remarks; "Les dissertations métaphysiques, théologiques, ne conviennent pas à ces pauvres gens, fort au dessous de nos paysans." tom. iv. p. 350.

Let it be observed, however, that the same authorities, and others who have noticed the slowness of the negroes to apprehend some of the more abstract and mysterious of Christian doctrines, (see P. C. Rep. Part III. Account of the Moravian Missions, and a remarkable Coincidence in Charlevoix, Hist. de St. Domingue, liv. xii.) all strongly attest their great docility in regard to those articles of faith which are universally considered among Christians as fundamental, and concur very fully with the testimonies before cited as to the happy fruits produced by religious instruction in their hearts and lives.

Perhaps the difficulty in regard to the doctrinal points alluded to by Charlevoix, and the Moravians, is only such as these poor men share in common with the best and most cultivated of finite understandings; though their ignorance of all the abstract terms which we apply to such subjects, may naturally make their want of conception in them more obvious and striking than our own.

On the difficulties, insuperable, I believe, of conveying the necessary instruction to the slaves in general, by means of an established clergy alone, I had said much in the first impression of this work, which I need not now repeat, not only because Sir George Rose has given very luminous views of that subject, but because the beneficed clergy of the colonies have now, by their returns of 1817, cited in the last section of this work, confirmed both his views and mine in a manner quite decisive.

The question therefore, I repeat, is not, whether Christianity shall be taught to these poor pagan bondmen by sectarians, but whether it shall be taught to them at all: and we must not lend our prepossessions, as members of an enlightened establishment, to those who endeavour, not to bring men within the Church of England, but to exclude them from the Church of Christ.

It may nevertheless be instructive and satisfactory further to shew that the affected fear of sectarian teachers is not the real feeling upon which West Indian proprietors dislike to have their slaves brought within the Christian pale; and to this end it may be useful to add a few facts as to the French and Dutch colonies; for in this, as in other cases, they furnish a mirror in which we may view the reflected image of our own.

We hear there of no sectarian teachers. Perhaps the intolerant spirit of the Popish faith survived the religious feelings which gave birth to it; and may, in the French West Indies, have made it unsafe for Protestant missionaries, to preach the Gospel to negroes, as it appears to be prohibited by law.\* The fact, however, is, that in the islands of France, the work of instructing them was never attempted by any clergymen but those of the national church; and yet the same aversion to it always appeared among the French planters, that has been manifested by our own. I speak not of those impious and unhappy times, which followed the revolution in France, and which have been the *æra* of convulsions civil and religious, in her West India islands; but of the age of Louis the XIVth, and the reigns of his legitimate successors, during

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\* By an edict of Louis XIV. the public exercise of the reformed religion in the colonies was expressly prohibited. (Ann. du Cons. Souv. de la Mart. tome i. p. 177, 178.)

which the government of the mother country was not wholly inattentive to the interests of religion in its colonies.

The master in those days durst not, indeed, directly oppose the royal ordinances, by which he was commanded to permit the instruction of his slaves ; and by which the clergy were authorized to perform their pastoral duties without his consent, even in the bosom of his plantation. But the planters even then for the most part yielded an unwilling obedience ; and instead of forwarding, in a great measure frustrated the work. At length, as religion declined in the mother country, especially after the suppression of those very active propagators of Christianity in heathen lands, the Jesuits, the opposition of the masters triumphed over the feeble efforts of a corrupt and lukewarm clergy. The negroes of the French islands, if we may judge by those of St. Domingo, were still in general baptized, and taught some exterior ceremonies of religion ; but were left wholly uninstructed in the doctrines and practical precepts of the Gospel, until the scourge of revolution severely punished this impious neglect, as well as their temporal oppression. \*

In fact, the royal edicts, and the influence of the clergy with the government, seem to have been the chief or only sources of the superiority which the French colonies, in this

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\* Charlevoix, who complains of the irreligious opposition of the planters of St. Domingo, even at that early period, and in that devout age, to the marriage of their negroes, thus further incidentally notices the docility of the slave, and the impiety of his master. " Il est vrai de dire, que, quand on leur a donné la connoissance de Dieu, la religion est la chose dont ils font plus de cas : c'est le fruit d'une raison qu'aucune passion ne domine. Quelques exemples qu'on rapporte du contraire ne prouvent rien contre l'expérience générale : outre que pour l'ordinaire ils n'ont d'autre fondement que l'irreligion de leurs maîtres, qui voudroient justifier par là, le peu de soin qu'ils apportent à l'instruction de ces malheureux." (Charlevoix Hist. de St. Dom. tome iv. liv. 12.)

Another ecclesiastic of that age, who was a missionary in St. Domingo, and is quoted by this author, gives the planters some allowance of praise for sending their negroes to church ; at the expense, however, of our own countrymen in the neighbouring islands, who, he says, " souvent ne procurent seulement pas la grâce du baptême aux nègres qui naissent chez eux ; encore moins à ceux qui leur viennent d'Afrique." (Ibid.) It would appear, however, that the comparative and partial merit of the French planters, was not quite spontaneous : for our pious informant soon after adds, " nous obligeons leurs maîtres à nous les envoyer au temps de Paques pour les confesser," &c.

respect, once possessed over the British; and in regard to ecclesiastical establishments, it appears that they would have been almost as completely destitute of resident clergymen, as our own new colonies are, if their mother church had not formerly supplied them with pious volunteers.

While the French West India Company, directed of course by planters and colonial merchants, had the charge of providing religious establishments in the Antilles, that sacred duty was wholly deserted. The King, in granting the company's charter, had obliged that body to stipulate, that it would send out and support at its own charge, a sufficient number of missionaries to perform the pastoral duties of the clergy in every parish; but the company entirely neglected the performance of this engagement; and until, in consequence of the pressing instances of M. Duparquet, the governor, a few Jesuits were sent out to Martinique in 1640, there was not a clergyman established in that island. Even then, it was supplied with no more than were sufficient to serve the cures of St. Pierre and two neighbouring parishes; and the rest of the island was, till 1663, left destitute of clergy.

Nor would the company provide for the subsistence even of the few missionaries whom it had so tardily and reluctantly employed. The Jesuits, and the other religious fraternities, who afterwards followed their pious example, were obliged to support their missions chiefly by the profits of plantations, which they were enabled by the funds of their respective orders, to purchase and cultivate for that purpose. The West India Company was, indeed, once constrained to pay a small sum to the Jesuits; and afterwards to grant certain fiscal exemptions and privileges to the missionaries in general; but on the dissolution of that company, such immunities ceased; and except a limited exemption from the capitation tax on slaves, and a very small pension to missionaries of the poor religious orders, paid, not by the colonies, but by the King, I do not find that the clergy in the French Windward islands have since had any public encouragement or support. The secular clergymen appear to have been supported wholly by parochial fees, or voluntary contributions, from the inhabitants; and tithes, or compositions for tithes,

are in all the French, as well as the English colonies, wholly unknown. \*

If M. Malouet's information be correct, the very wealthy and extensive colony of St. Domingo was not more liberal than the rest; for he estimates the charge of churches and clergy at no more than 600,000 colonial livres; and this account apparently comprises, not only the expense of building and repairing the churches, but all the other ordinary parochial disbursements, such as in England are provided for by a parish rate, and are under the direction of the vestry. We learn from the same authority, that the clergy were chiefly supported there, as in the Windward islands, by the funds of their respective orders, or by fees and perquisites. †

This experienced colonist and statesman agrees with all the other French writers, with whose works on the West Indies I am acquainted, in admitting the profane manners of the planters, and their open neglect and contempt of religious institutions. It is true, he labours to throw the blame on the clergy, who, perhaps, were as bad as he describes them; though one of the reasons that he assigns for the emptiness of the churches in St. Domingo, is rather of an equivocal kind, and might admit of a specious reply from the preachers, “*des invectives plates contre les gens du monde, dégoutent ceux-ci de la fréquentation des églises.*” He clearly shews, however, that in point of fact, all outward appearance of respect for religion, had ceased among the white inhabitants of that colony, prior to 1775; and that even the churches were suffered to fall to ruin. ‡

It is of no small importance to shew from such unexceptionable authorities as these, that the religious instruction of the slaves of St. Domingo had been grossly neglected, prior to the

\* *Annales du Cons. Souv. de la Martin.* tome i. p. 37. to 41.

† *Mémoires sur les Colonies*, tome iv. chap. 7.

‡ “*Une succession de mauvais prêtres, ignorans, déréglos, a détruit, dans presque toutes les paroisses de la colonie, la respect pour leur état, et la pratique éclairée de la religion.*” And again — “*Les églises tombent en ruine: le gouvernement reste neutre. Tel est en substance l'état actuel de l'église à St. Domingue.*” (Tome iv. chap. 7. p. 338, 9.)

revolution in that island: and M. Malouet attests that the clergy were not less guilty than the laity of that neglect.\*

It seems that this deplorable state of the West India clergy, had attracted, at that period, the notice of the court of Versailles; and that to remedy it, a plan was concerted for establishing bishops in the islands, who might enforce discipline and good order in the church. M. Malouet takes to himself the credit of having frustrated this plan, by the effect of the essay from which these extracts are made, which he presented to the French minister of the day.

His argument was, that never failing pretence of the opposers of colonial reformation, "the danger of insurrection among the slaves," which the reader, perhaps, may think to have been, in this case, somewhat strangely applied. *The slaves, he observed, would look with superstitious reverence towards the bishop, and their attachment to him would become so exceedingly great, that if he should make a bad or imprudent use of his influence, insurrection and rebellion might be the consequence.* So that, it seems, an orthodox bishop is no less dangerous in this inflammable field than a Methodist missionary.†

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\* "Nulle instruction pastorale et relative à la simplicité, à la superstition des nègres, n'occupe ces ecclésiastiques: aucun d'eux n'acquiert sur ses paroissiens, l'autorité des bonnes mœurs, d'une vie pieuse, et charitable," &c. (Ibid.)

† The reader may be curious to know how this objection could have been put so as to satisfy the enlightened cabinet of Versailles; M. Malouet, therefore, shall speak for himself; especially as he will be found to give further information respecting the low state of religion at that period in St. Domingo.

"Les trente mille blancs qui sont à Sainte Domingue, commandent à trois cent mille nègres, et ces nègres sont de l'espèce humaine la race la plus superstitieuse. Ceux qui sont baptisés et qui fréquentent les églises, n'ont aucune idée de la religion. Ils ne connaissent que les prêtres et les images; ils leur croient en général une puissance, une vertu magiques; ils mêlent à cette croyance toutes les extravagances des cultes idolâtres: *on ne prend, ni le temps, ni la peine, de les instruire, et leur vie pénible, d'ailleurs, se passe dans cet abrutissement pitoyable.* Témoins des dérèglements des prêtres, et l'inconsidération qui en est le fruit, ils n'en sont pas moins craintifs et soumis devant eux. Que seroit-ce s'ils voyoient un évêque respecté par tous les ordres de la colonie, revêtu de toutes les marques de sa dignité, parlant à leurs

That such arguments really prevented the projected establishment, according to M. Malouet's boast, is, probably, very true. The author of the Annals of the Sovereign Council of Martinique mentions the same project, and the names of bishops who were actually appointed both for the Windward Islands and St. Domingo ; and says, that the new prelates were waiting only for bulls of consecration from Rome, when the death of Louis XV. suspended the execution of the plan. He seems to ascribe its ultimate failure to that event; but was probably ignorant of M. Malouet's official representations. Certain it is, that no remedy of that or any other kind, for the disordered state of the church of St. Domingo, was applied ; and the clergy, doubtless, continued to neglect the instruction of the negroes, imparting to them only the exterior forms of Christianity, down to the time of the revolution.

M. Malouet, it should be observed, writes like an earnest advocate for the religious instruction of slaves, though alarmed at the idea of having bishops in the islands, who might be enabled to "speak with authority" to his brother planters, and brother administrators of colonial affairs, on the complaints of the slaves.

Another French writer of the same period, whom I have repeatedly cited, M. Hilliard D'Aubertuil, seems to have been

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" maîtres avec autorité? Ils le prendroient pour un Dieu, et le prélat " seroit le seul maître des habitans et des habitations: toutes les plaintes " de ce peuple esclave s'adresseroient à lui, s'il étoit sensible aux traite- " mens, quelquefois injustes, qu'on leur fait essuyer. Et certes il suffit " d'être bon et juste pour en être touché: mais s'il le paroisoit, ce seroit, " pour les esclaves, le signal de la vengeance et de l'impunité.

" Servi par des nègres, cet évêque ne pourroit dire un mot, faire un " signe, qui ne fut rendu à tous les esclaves. La conversation la plus " innocente sur les affaires publiques, la plus légère improbation d'un " jugement, d'un ordre donné, seroit pour eux un anathème prononcé " contre les administrateurs, contre les tribunaux: le fanatisme le plus " horrible exalteroit leurs têtes; le changement, la mort d'un évêque, " seroient une révolution, et on ne peut pas prévoir jusqu'où elle seroit " portée.

" Tout cela seroit possible, en supposant le prélat nommé, très-religieux, " très-sensé, très-prudent. Mais si l'on faisoit un mauvais choix, si cet " évêque se permettoit aussi quelques écarts, quel en seroit le frein à deux " mille lieues de son souverain, et de ses con-frères?" (Tome iv. p. 345, 346, 347.)

a philosopher of the modern school ; but agrees with M. Ma-louet, nevertheless, as to the extreme negligence of the clergy in St. Domingo, which he describes as existing in 1777, in a style rather of exultation than regret. After blaming the Jesuits, for that very opposite and pious conduct, which reflects great honour on their memory, this writer says —

“ Les nègres sont superstitieux et fanatiques ; il faut au-  
“ tant qu'il est possible, ne point leur donner d'occasions de  
“ se livrer à ces vices dangereux. Les Jésuites ne se con-  
“ duisaient pas dans cette vue ; *ils prêchaient, attroupaient les*  
“ *nègres, forçaiient les maîtres à retarder leurs travaux, faisaient*  
“ *des catéchismes, des cantiques, et appellaient tous les esclaves*  
“ *au tribunal de la pénitence ; depuis leur expulsion les*  
“ *mariages sont rares, il ne s'en fait plus parmi les nègres des*  
“ *grandes habitations. On n'y permit plus à deux esclaves, de*  
“ *séparer pour toujours leur intérêt, et leur salut, de celui de*  
“ *l'attelier. PLUS DE PRIERES PUBLIQUES, D'ATTROUEMENS,*  
“ *DE CANTIQUES, NI DE SERMONS, POUR EUX ; mais il y a*  
“ *toujours des catéchismes, et les nègres peuvent encore, en*  
“ *payant, se faire baptiser trois ou quatre fois.*”\*

Perhaps, the proprietors of those great plantations, of which this author speaks, or such of them as have yet escaped destruction, may now look back with regret on their purblind and impious policy. Their negroes, though restrained from marrying, found a way “ *de séparer pour toujours leur intérêt* “ *et leur salut de celui de l'attelier ;* but had not “ the pub-  
“ lic worship, the hymns, the sermons, and the confessions” of the Jesuits, which are here sneered at, been long before renounced, the horrors of the revolution would probably have been avoided.

A few of the slaves of St. Domingo, however, were still taught more than the exterior rites of Christianity. The immortal Toussaint was of the number ; and let his conduct speak the beneficent effects. But basely indeed was he requited by those whom his pious humanity preserved ; and his successor was never, I presume, sent to the confessional or to the church. Dessalines was as irreligious as a French philo-

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\* *Considérations sur la Colonie de St. Domingue, tome ii. p. 68.*

sopher or West India planter could wish; and almost as merciless as his white enemies themselves.

In the Dutch colonies, where the business of interior legislation was committed to a West India Company and an assembly of planters, the irreligious spirit, commonly generated by habits of West India oppression, was wholly unrestrained; and in consequence, the imparting Christian instruction to slaves, was there not only wholly neglected, but even, if I may trust their own writers, prohibited by law.

Bancroft, in his account of Demerary and Essequibo, obliquely, but strikingly, notices the total neglect of religious instruction in those colonies. "Several modern compilers of "the history of our West India settlements, have enumerated "shoes and stockings, among the articles of clothing for the "negroes, though nothing could more certainly betray their "ignorance of this subject; *since a slave in stockings and "shoes in these countries would be as uncommon a spectacle, as "a negro instructed in the principles of Christianity.*" \*

M. Malouet, in his observations on Surinam, notices the same fact more directly, and quotes, from the planters with whom he conversed in that colony, a very singular defence for it. It seems that the Protestant religion, is not fit for slaves; and yet that their clergy will not liberally permit the substitution of Popery; which, if I rightly understand the passage, the planters professed to desire. †

But had this French planter and statesman consulted Dr. Fermin, a colonist of Surinam, and, like himself, an apologist of slavery and the Slave Trade, he would have discovered that these communicative and liberal planters had kept back from him one obstacle to the instruction and baptism of their slaves, that will, perhaps, be thought full as obstinate, as the

\* History of Guiana, edit. of 1769, p. 370. The shoes and stockings would be phenomena not less strange among the field negroes in the British colonies; and that it is otherwise as to Christianity, we owe to the missionaries alone.

† "Les habitans de Surinam s'excusent de n'avoir donné aucune teinte de religion à leurs esclaves, sur ce que la leur, dans laquelle il y a très-peu de cérémonies, n'est guères propre à attacher le peuple; et sur ce, que leurs ministres ne suffroient pas que l'on y fit des changemens en faveur des esclaves." (Mémoires sur les Colonies, tome iii. p. 182.)

unaccommodating spirit of the Dutch Protestant clergy; namely, the law to which I have before adverted, which made baptism a title to freedom.\*

I find no great difficulty in believing, with M. Malouet, that the Dutch planters would have given up their Protestantism, had that been the only difficulty; for he describes them, the managers at least, as persons "*que ne vont pas une fois dans l'année au temple*," and adds, "*qui ne sont assujettis à aucune pratique extérieure de religion*; grand défaut *de la religion réformée*, et *ces messieurs en convenoient avec moi.*"†

It is curious to compare the various and opposite pretexts thus made by West India planters of different nations and churches for neglect of the same sacred duty.

The Dutch Calvinist pleads, that his religion is too intellectual, and too much divested of exterior ceremonies for negroes: the French Papist, that the outward rites and ceremonies of his church only serve to make these poor men superstitious. The one finds fault with the established clergy for requiring, in their sable converts, too much knowledge; the other for being content with too little. The English Protestant, on the other hand, not being provided with any established clergymen whatever, or none by whom his slaves are or can be instructed, objects to the only teachers that offer

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\* After giving, with perfect coolness and philosophic indifference, an account of the gross idolatries practised by these poor heathens, while in the service of men called Christians, the Doctor adds, "Ce culte cependant n'a plus lieu parmi ceux qui ont le bonheur d'être instruits dans la religion Chrétienne, et d'être baptisés; parce qu'alors ils ne reconnoissent plus que l'Etre suprême: et que d'ailleurs, *le baptême les affranchissant*, ils perdent toute idée de servitude, et d'idolâtrie.

" Le nombre de ces Chrétiens n'est pas fort considérable, par le nombre de difficultés qui se rencontrent à leur donner la liberté: prenièrement, " si un maître veut affranchir son esclave, il est obligé, outre la perte qu'il fait de ce qu'il lui à coûté, de lui acheter des lettres de franchise, qui coûtent aux environs de deux cents florins; car sans elles, l'esclave NE PEUT ÊTRE INSTRUIT, NI BAPTISE." (Description de la Colonie de Surinam, édition 1769, p. 136.) It appears from Lieutenant-Governor Murray's despatches, that he and his Court of Policy at Demerara have raised the price of freedom there much above this standard: but of this hereafter.

† Mém. sur les Colonies, tome iii. p. 166.

themselves, that they are not ministers of the established church.

The Jesuit could not be called illiterate, but he was too zealous: the Dominican and Capuchin became moderate and lukewarm enough, but they were covetous and luxurious: the Methodist or Moravian might defy the latter imputations, but he is fanatical and seditious. With what species of clergy or missionaries will these nice colonists be content, except such as leave their negroes unbaptized; or, like the late converts of Jamaica, baptized without being taught?

I ought, however, to do justice here to that philosophic planter of St. Domingo, whose work has been repeatedly cited. He was, as has been seen, discontent with the Jesuits for being in earnest, and laughed at the empty ceremonies to which, under their lukewarm successors, Christianity had been reduced; yet he maintains the great importance of religious instruction, provided the negroes are taught upon his own principles, which seem to be entirely consonant to the theophilanthropist creed, as settled twenty-five years after in France.

He would teach them, he says, to be "grateful to their "Creator, and friends of nature and humanity," but would by no means overwhelm their weak minds with what he calls "*supernatural dogmas*," such as "*the expectation of a future life*," which it seems can only serve to render them intractable, and averse to labour, to destroy the attractions of the present life, and lead them finally to suicide: nay, if I understand him right, to the murder of their children also !!! \*

This is certainly much more candid than to cavil at particular teachers, or modes of Christian tuition, and to provide no others in their stead. The author, nevertheless, argues strongly for what he deems religious instruction, in opposition to some of his fellow colonists, who avowedly regarded the

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\* "La contemplation d'une vie future, ne peut que les rendre indociles, "inattentifs, ennemis de leurs travaux, détruire les attractions de la vie "présente, les engager enfin à se donner la mort, et à ensevelir avec eux "une postérité, dont la colonie, l'état, et le commerce, ont également "besoin." He adds, "Le renoncement à soi-même est fatal en toute "société, et c'est rendre hommage à Dieu, que d'écouter la voix de la "nature." (*Considérations sur la Colon. de S. Dom. tome ii. p. 70, 71.*)

teaching religion of any kind to their slaves as unnecessary, impolitic, and pernicious.\* The times of dissimulation on such subjects had not then arrived; and therefore these colonists of St. Domingo, it seems, did not scruple to declare their resolution to keep their slaves for ever in pagan darkness; boldly ascribing to the Christian instruction which had formerly been received by them from the Jesuits, every crime, real or imputed, for which negroes had since been put to death in the island †, and, I doubt not, with full as much truth as their British brethren have ascribed insurrections to the missionaries of our religious societies.

These impious views, and the correspondent practice at St. Domingo, have been terribly chastised. May other colonies, while there is yet time, learn wisdom from the example!

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The settlements of Spain and Portugal may teach us, by contrast, what those of France and Holland have taught us by similitude: the true sources of the anti-christian spirit which prevails in our own.

The Spanish and Portuguese slaves are as well instructed in religion as their masters; but then it is a fact equally indisputable, that they are fed, clothed, and governed, with a degree of liberality and kindness which, in other colonies, is utterly unknown. We have incidentally seen also, that the servile code is among them proportionably lenient and just, beyond that of the British islands. Christianity, then, is at least a safe inmate in West India settlements; since those of Spain and Portugal are pre-eminently tranquil, and exempt from interior convulsions. It is also, we find, a welcome guest among masters, when their slaves are treated with humanity. But where the case is grossly otherwise, it is acceptable indeed to the slave, but neglected, if not hated, by the master. The conclusion is obvious, and honourable to the religion of Jesus.

M. Malouet found himself pressed hard by the known case of the Spanish colonies, when he objected to the plan of send-

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\* Ibid. 69. "Ils prétendent qu'il n'est point possible d'allier dans la manière de gouverner les nègres, la politique, et la religion," &c. &c.

† Ibid. p. 69, 70.

ing a bishop to St. Domingo ; for in those colonies there are resident prelates, as well as a numerous clergy ; and yet there he could find no countenance in experience for his political alarms. The answers which he was driven to resort to were, that in Spanish America the slave is, comparatively, but little distinguished from his master ; and also, that the free population there largely exceeds the aggregate number of slaves. \* He elsewhere, however, seems to admit, that the humane peculiarities of the Spanish and Portuguese settlements are rather the effects, than the causes, of their superiority to other colonies in ecclesiastical establishments, and in zeal for the instruction of their slaves † ; and as to the preponderance of the free, over the enslaved population, in the colonies of Spain, it is notoriously owing to the mildness of their laws, which greatly favour enfranchisement. The benign influence of religion, therefore, may, probably, have been the cause, rather than the effect, of both those happy distinctions, which M. Malouet supposes to have there favoured her admission.

I find it difficult, nevertheless, to say, which would be most glorious for Christianity ; the conclusion, that where a cruel slavery exists, it makes masters adverse to the gospel ; or its converse, that where the gospel prevails, it makes slavery cease to be cruel. One of these propositions must be admitted ; for it is clear, upon every authority, that in proportion as Christianity in a West India colony is publicly respected, and propagated among the slaves, the law of slavery is humane, and the state in practice lenient.

\* Tome iv. p. 347.

† Tome iii. p. 115, &c. he says of the Portuguese — “ Leur fanatisme assouvi par le sang, et le baptême des infidèles, leur présente enfin les Indiens, et les nègres convertis, au nombre de leurs frères. Je suis tenté de pardonner à la superstition toutes ses atrocités, en faveur du soulagement qu'elle procure aujourd'hui à cette portion de l'espèce humaine, qui en a été si long temps la victime.”

It must not, however, be conceded to M. Malouet, that even superstitious Christianity is liable to any such drawback as is here implied on its modern good effects. Religion, indeed, was the ancient pretext, as commerce and industry are the modern, for an exterminatory system of oppression ; but avarice, for the most part, gave then, as now, the true impulse to those crimes of which superstition bore the blame.

For the remedies that may and ought to be applied to the lamentable neglect of religious instruction in the British colonies, I can most satisfactorily refer to the publication of Sir G. Rose; and shall abstain from adding any suggestions of my own, with two exceptions to be presently noticed.

But having cited the authority of M. Malouet, and of that very intelligent English colonist, the late Dr. Collins, for the existing neglect of religion, it may be proper to mention here, that they in great measure agree as to the proper mode of reformation. They both hold private teaching, to be indispensably requisite; and both recommend the appointment of spiritual instructors for particular estates, or for limited numbers of slaves, at the charge of their owners; but with this material difference, that the English reformer proposes no more than one teacher for two or three thousand slaves; whereas the Frenchman recommends the establishment of a chapel and chaplain on every estate, whose gang amounts to two hundred; but that where that plan should be found too expensive, the owners of three or four plantations might unite for the purpose, and have a common chaplain between them.

Both these well-informed colonists regarded the temporal benefits of religious instruction as what would far overpay to the master the charge of the proposed improvements; and the English author, while he seems wholly to have relied on the zeal of the sectarian teachers, as those who alone had then shewn any disposition for the work, insisted on the duty of contributing freely to the expense of their missions, unless other instructors could be found. Without positive assistance from the planters, it is impossible, he observed, that the slaves at large can have the benefit of their pious labours.\*

There are two regulations, however, which for obvious reasons no colonial proprietor is likely to recommend, and which yet appear to me of unspeakable importance to the success of any measures that may be taken in this great and necessary work. The new teachers, whoever they are, should be

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\* Practical Rules, &c. page 201. Mémoires sur les Colonies, tome iv. chap. 7.

guarded against *themselves* in the first place; and in the next place, against the *malice of their enemies*; and for the former purpose, they should be absolutely prohibited from being owners or masters of slaves.

This is not the proper place for opening so wide a subject, as those causes by which the feelings of Europeans in general become altered in regard to the unfortunate negroes, and reconciled to such an odious system as I have now in part depicted, by long residence in the West Indies. Before my work issues finally from the press, I hope to find time for their full developement; but lest I should be disappointed, let me here briefly remark, that the grand corrupting cause is the personal administration of the harsh system itself. Men who go to settle in the West Indies, though not in the planting line, become almost universally the masters of domestic slaves; and it is by the government of these, that they insensibly acquire the bad feelings and habits, which on their first arrival, perhaps, they regarded in others with a generous indignation. Annoyed and irritated by those vices which slavery very rarely fails to produce in its degraded subjects, they have recourse to the established modes of correction: at first they do so with reluctance, and sparingly; but are soon persuaded that a severer discipline is necessary; and every successive infliction of punishment, rubs off something of that humane sensibility with which they at first set out; till at length they acquire the common apathy, and the common aversion, towards that unfortunate class. I have seen this progress in men whose opinions and feelings when they first landed in the West Indies were conspicuously liberal and humane; and, strange though it may appear to those who have not reflected much on the sources of such changes in moral character, those masters who were at first distinguished by their superior benevolence, have not unfrequently ended in an excess of severity, not less beyond the general standard.

It has been alleged by the creole apologists of slavery, not wholly without truth, that Europeans are often found to be harsher masters than those proprietors and managers that are natives of the colonies; and these remarks may serve to explain it. Judging from my own observation, the fact is, that the native white creole generally regards the negro slave with

more contempt and apathy; but the European, when a seasoned slave master, is sometimes more apt to be irritated into cruelty in the punishment he inflicts. With both, the exercise of domestic discipline is the great indurating cause; and I have always held, that *praedial* slavery, for which the climate is supposed to furnish an apology, would have been infinitely milder than it is, if *domestic* slavery, which does not fall within the same excuse, had been prohibited, as it very conveniently might, by law.

Without opening further here my views on this important topic, let me ask my readers, and especially such of them as have a proper reverence for the character of a regular clergyman, whether it is fit that he should be a buyer and seller of slaves, or hold in a most degrading temporal bondage the members of his spiritual flock; whether the same tongue which inculcates the lessons of Christian gentleness and benignity, should be exercised in the angry and awful tones, the indignant objurgations, and terrifying threats of an offended slave master; whether the loud reports of the chastising whip, and the screams of the prostrate sufferer, ought ever to resound from the parochial pastor's mansion: in a word, whether the harsh ordinary discipline, which the odious system permits, and perhaps demands, is fit to be administered by Christian ministers, and by reverend clergymen of our established church, sent out to propagate a religion of justice, liberality, and love?

Let it not be supposed, that a sense of public decency is security enough against the bad, or even worst effects of this stern relation. In one small island, there have been two recent instances of regular clergymen having been tried on charges of murdering their slaves in the exercise of a master's power. In one of the cases, the reverend defendant was acquitted; but in the other, a conviction of manslaughter by excessive whipping took place, as official evidence, laid on the table of the House of Commons, has attested. In another island, within my own recollection, the beneficed clergyman of the chief town was presented *ex officio* by the grand jury, for a public nuisance, for loading a wretched female domestic slave with heavy irons and weights, and sending her daily, for

many months, through the streets in that condition, to bring water from a distant well.

I am far from meaning it to be understood that such excesses are common among the colonial clergy. I doubt not, that they in general hold them in abhorrence. But men in that sacred profession ought not to have any part in a system of acknowledged evil, from which such consequences sometimes flow, and the administration of which is in their hands at best highly indecorous.

At present, it sometimes happens, that beneficed clergymen are not only slave owners, but planters, and as attorneys and managers for absent proprietors, extensively employed in the conduct of sugar estates ; but their successors, at least, should be prevented from engaging in such occupations. Their secular character is objection enough ; more especially for men who truly allege, that they have not time enough for all their pastoral duties. Our clergy are rightly forbidden to be farmers here, except in certain limited cases, of their own glebe lands ; and it surely does not make agriculture fitter for their hands, that human beings, instead of cattle, form the teams, and employ the driving whips ?

The other suggestion I have to make is, that the teachers of the slaves should be rendered safe in the exercise of their functions, until at least the spirit of opposition to them by the planters and colonial functionaries subsides, by some special provision, for the fair and impartial investigation of their conduct, when they are accused of political mischief. If really guilty of the impious wickedness of making Christianity a vehicle for sedition, and instigating their unfortunate converts to revolutionary attempts, no punishment can exceed their deserts. But the propagation of such charges against them, if innocent, is hardly a smaller crime, or less dangerous perhaps in its effects. It is trying the patience of the poor black converts too severely, to vilify and persecute before their eyes, teachers whose innocence they well know, and to whom they owe that benefit, which, wherever it is effectually bestowed, is felt to be the first of human obligations. To see the very men who have been assiduously inculcating upon them lessons of submission and reverence towards their temporal superiors, dragged to prison, and, perhaps, to

martyrdom, or proscribed as seditious conspirators, by the very powers they have taught them to respect, may produce indeed no resistance, because those pious lessons are remembered and observed, but cannot fail to excite, even in the bosom of a well-taught Christian, feelings of honest indignation, not to be easily repressed. Besides, the discouragement of these volunteers in the service cannot be wise, while we want and accept their assistance; and if they are to be victims of local prejudice and hostility, not only to the injury of their characters, but to the danger of their lives, whenever a servile insurrection or plot, or the fear of such occurrences furnishes malice with a pretext for defaming them, their pious zeal cannot be expected to attach them long to so perilous a field. There is abundant room for them in other pagan regions, where their oppression would at least bring no dishonour on the Christian name; and they have their master's warrant for changing, under such circumstances, the theatre of their labours: "When ye are persecuted in one city flee unto another." The same spirit which drove them from Barbadoes will produce perhaps the same effect in other colonies.\*

Justice, sacred justice, at least demands, that they should when accused be fairly tried; and this they cannot be, where the judges and jurymen are all deeply tinctured with the same hostile prejudices and feelings, out of which accusation is so likely to arise; more especially in an hour of popular agitation and panic.

What I would suggest, therefore, is, that some special provision should be made for the fair investigation of all charges made against the appointed or tolerated instructors of slaves, imputing to them traitorous or seditious practices; and the best plan that occurs to me for this purpose is,—first, to direct that examinations in writing, on both sides, be taken before the governor, and to require of him to exercise a preliminary judgment upon them, whether the charge is sufficiently proved to make it proper that the party shall be taken into or detained in custody, for the purpose of being brought to trial. If on his official responsibility he so determines, then the accused

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\* At the moment when this sheet is going to press, intelligence from that island shews that the methodists had re-established a mission there, and that a most unprovoked popular outrage has been their reward.

party ought to be sent to England, to be tried by a jury of his country; and proper regulations should be made by act of parliament for this purpose, and for the production of the necessary evidence here. Such provisions are not unprecedented; and if they were allowable, to make the officers and friends of Government safe in obeying the revenue laws in North America, they cannot be less so in the present case, where the prejudices that oppose the impartial trial of the accused are more than equally violent, and nearly universal. \*

As it was no duty of religion in the ancient heathen world, to instruct men in their moral duties, and prepare them for a future life, our colonists are, in this instance, safe from a direct comparison with Roman masters, in the worst era of their slave laws. But though there was then no parallel case which might fully shew the superiority of those harsh masters, at that bad period, to West India planters, there was one duty of a serious nature, far more important in a pagan than a Christian view, in which both the Grecian and Roman slaves were treated with a humanity unknown in the British colonies.

The funerals of slaves appear to have been frequently so liberally celebrated at Athens, that a sumptuary law was necessary to regulate them; for it was prohibited by the legislature to embalm their bodies, or to honour them with a funeral banquet. † But as it was natural that an opposite treatment should often be given to them by poor or sordid masters, certain Athenian magistrates were commanded, under severe penalties, to solemnize, when necessary, the funerals of men of that hapless condition. ‡

Among the Romans, also, slaves were decently interred, and their burial places religiously respected. §

Far different is the case in the West Indies; at least in the British colonies. By an article of the *Code Noir*, it was humanely directed, that the Negro should be baptised and have Christian burial, and be interred in consecrated ground. But we should search in vain in the laws or prac-

\* See Stat. 14 Geo. 3. cap. 59.

† Potter's Grecian Antiquities, book i. chap. 26.

‡ Ibid. book 4. chap. 1.

§ Grævius, Rom. Antiq., vol. xii. p. 1256.

tices of any of the British colonies, speaking generally as to the practice\*, for equal humanity. There—

“ — — — The sacred dust  
Of this heaven-laboured form, erect, divine,”

when no longer animated with that soul which groaned under oppression, and no longer fit for the master's purposes, is abandoned, with unfeeling disregard, to the care of kindred wretches, to be interred at their discretion in the nearest vacant soil.

The funereal rites commonly paid to ordinary plantation slaves are supplied, not by the care of the master, but by their relatives on the same estate; and are in the forms of African superstition, not of Christian worship.

It is not, however, with the neglect of funereal rites in our colonies, but with that of religious instruction, that the pious care of the remains of deceased slaves among the Greeks and Romans ought to be compared. It was believed by those heathen nations, that the rites of sepulture were necessary to the repose of the departed spirit; and I am not aware that in their opinions there was any other case, in which the charitable efforts of the master could possibly contribute to the posthumous welfare of his slave. What they could do, therefore, they did, to promote in another world the happiness of those fellow beings, who in the present were devoted to their service.

If we descend to the times when the Roman empire became Christian, or enquire into the history and laws of any other ancient nation in which slavery has lingered after the reception of the Gospel, we shall no where find that the slaves

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\* It would appear from the late population returns, that in one or two of our islands, burials of slaves by the parish clergy, and in the church-yard, are now become not uncommon; but their numbers, except at Antigua, bear a proportion insignificantly small to the general population and mortality: and it should be observed that there are every where considerable numbers of slaves of a superior class, domestics, drivers, and artificers, &c. to whom these remarks do not relate; as well as Mulatto children born in slavery, whose fathers naturally provide for their obsequies, and who are included in these returns of slave burials without discrimination.

were left in paganism after the masters were converted. Direct legislation to prevent the neglect of their spiritual instruction was not necessary; for the religious feelings of the master, and the influence of the clergy, every where precluded such impiety. Yet many incidental regulations might be cited, to prove that the laws were not regardless of the religious interests of bondmen; for example, the prohibition of their labour on the Sabbath, and that of selling them to pagans or Jews, or without the limits of the state or province, lest they should fall into the hands of infidels. Among the laws of the German nations collected by Potgieserus, many such prohibitions are to be found.\*

I conclude with a precedent, that ought to have weight with Christians—the example of the apostles. Our colonists profanely claim the sanction of the Bible, for a species of slavery which is at open war with its spirit, and with its general moral precepts—a slavery which differs very widely indeed from that servile condition to which the sacred writers allude. But if the bondmen spoken of by St. Paul had been in a state as abject and cruel as that of the West India negroes, still to those bondmen the Gospel was preached, and they seem to have constituted no inconsiderable part of the early Gentile converts.

Where, then, is example, or countenance to be found, for the utter desertion by the colonial lawgiver and master of this sacred branch of their duties?

#### SECTION VI.

THE WEST INDIA SLAVE IS NOT ONLY SUBJECT TO ALL THE CRIMINAL LAWS BY WHICH THE OFFENCES OF FREE PERSONS ARE PUNISHED, BUT TO AN ADDITIONAL PENAL CODE OF GREAT EXTENT AND SEVERITY, MADE FOR THE GOVERNMENT OF MEN OF HIS CONDITION ALONE.

IN what degree the slave in our colonies can be said to derive any benefit from the institutions of society, has now been fully shewn. I proceed, therefore, to state, as was proposed,

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\* *De Statu Serv. lib. ii. cap. vi. &c.*

the opposite side of the account ; and to shew how much society exacts, or takes away from, or imposes on him, in return for the very little which it confers.

If any proportion ought to subsist between the advantages which man derives from civil government, on the one hand, and the duties which it imposes upon him, or the penalties by which his disobedience is punished, on the other, the municipal law ought to have dealt very tenderly with the African slave. It afforded some slight protection, in theory at least, to his life and limbs ; and, therefore, might reasonably have punished him, when he murdered or mutilated another man. But it would be difficult to say, on this principle, for what other offence he could be equitably treated as a fit subject of the criminal code. He was indeed, in a geographical view, within the jurisdiction of the municipal legislature ; but, since it had abdicated the right, or renounced the duty of protecting him, his constrained residence in the territory, gave rather the power, than the right, to punish him by law. It is regarded as an axiom in political morality, that allegiance and protection are reciprocal obligations ; and local allegiance, by which alone the captive African could be supposed to be bound in our colonies, can be referred to no other principle. In proportion, therefore, as protection was withheld, it would seem that civil responsibility did not justly attach upon him ; and if so, every municipal law, by which the imported colonial slave was subjected to corporal punishment or death, was, with the exceptions already made, unequal and unjust.

The case may be illustrated by that of an alien enemy, entering the realm as such, by open invasion, in time of war. He is not entitled to the protection of the law ; but for that very reason he cannot be treated as a traitor, though taken in the perpetration of an act which would be treason in a subject, or alien friend ; for he owes not even a temporary allegiance to that state, which owes him no protection. The difference in the case of the African captive was, that he entered the country, not by choice, but constraint ; not with any hostile intention on his part, but by an act of harsh hostility upon ours ; a distinction which can hardly be thought to have imposed upon him moral obligations to which the alien enemy is not subject.

These abstract original principles, however, are by no means necessary for the condemnation of the penal slave codes of our colonies; for, supposing that the colonial assemblies had possessed in this case the full moral right, as well as the power, of penal legislation, it would still obviously have been very unjust to place these poor Africans under a responsibility to the civil magistrate, more strict than that to which free persons were subject, or even to punish the same crime in each of those very different classes with an equal degree of severity. On the score of his native ignorance, at least, and want of moral and religious education, if not on that of his very inferior obligations to the law, the slave might have fairly claimed some favourable distinctions.

But the sense of the colonial legislators will be found to have been directly and widely the reverse. The ignorance and civil degradation of the Negro slave have with them been arguments for treating his crimes with greater rigor, as well as for denying him protection against the crimes of others.

This will clearly appear from the provisions of the laws which we shall presently review; and the principle has by several of these West India legislatures been distinctly avowed; for the uncivilized character of the unfortunate Negroes; or what, in the style of these enlightened law-makers, is called, "*their "brutish and barbarous natures,"*" were made the apology for highly aggravating the severity of the penal laws against them; nay, even for giving impunity to their murderers! \*

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\* "Whereas Negroes, Indians, mulattoes, and other slaves, are very numerous within these islands, and that the wilful killing of any such slave as aforesaid (by the strict laws of England) comes within the penalty of murder, the judgment whereof is forfeiture of life and estate: and whereas the privileges of England are so universally extensive, as not to admit of the least thing called slavery, occasioned the making such laws for the preservation of every individual subject, in his or their lives, estates, and indisputable rights and properties; but here, in his Majesty's colonies and plantations in America, the cases and circumstances of things are wonderfully altered; for the very kindred, nay, sometimes even the parents of these unfortunate creatures (upon the coast of Africa), expose their own issue to perpetual bondage and slavery, by selling them unto your Majesty's subjects trading there, and from thence are brought to these and other your Majesty's settlements in America, and consequently purchased by the inhabitants thereof; they being (for brutishness of their nature) no otherwise valued or esteemed amongst us than as our goods and chattels, or other personal estates."

It ought further to have been considered, that in all but capital cases, at least in offences against the master, the do-

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The reader may rely that this is a correct extract, *verbatim*, from an act of the British colony of Bermuda, passed no longer ago than the year 1730. (See it in the Privy Council Report, Part III. tit. Bermuda, Appendix.) Its enactments are perfectly congruous with this very liberal and humane preamble, as the following extracts may prove :

“ ————— Be it enacted, that if any person or persons whatsoever, “ within these islands, being owner or possessor of any *Negroes, Indians, mulattas, or other slaves*, shall, in the deserved correction or punishment of his, her, or their slave or slaves, for crimes or offences by them committed, or supposed to be committed, accidentally happen to kill any such slave or slaves, that then the aforesaid owner or possessor shall not be liable to any imprisonment, arraignment, or prosecution, nor indictment, nor subject to any penalty or forfeiture whatsoever.”

“ Provided always, and it is hereby enacted by the authority aforesaid “ that if any person or persons whatsoever, as aforesaid, shall *maliciously and wilfully kill or destroy*, or any manner of ways cause or procure to be, “ killed or destroyed, *any slave or slaves whatsoever*, whereof he, she, or “ they, or any of them, are owners, that then, and in every such case, the “ aforesaid person and persons, and each and every of them, shall forfeit “ and pay unto our Sovereign Lord the King, his heirs and successors, the “ full sum of *ten pounds current money*, to be employed for and towards the “ support of the government of these islands, and the contingent charges “ thereof.

“ But if it shall happen, that *any slave or slaves be wilfully killed as aforesaid*, by any person or persons whatsoever, that is *not owner thereof*, “ that then the aforesaid person or persons, and each and every of them, “ shall forfeit and pay the *full sum of ten pounds current money*, to be employed to the uses above mentioned, and also to pay the owner or owners “ of all and every such slave or slaves *such sum and sums of money as the aforesaid slave or slaves so killed shall be valued at*, as if then alive, according to the judgment, upon oath, of any five able and sufficient freeholders, “ or any three of them, appointed by warrant of the justice of the peace “ of the tribe or parish where such offence shall be committed, together “ with the charges occasioned; all which the aforementioned sum or sums “ of money shall be recovered, by way of action, in any court of record “ within these islands, wherein no escheat, protection, or wager of law shall “ be allowed.”

In Barbadoes, the legislature had earlier manifested, and avowed, the same liberal and merciful views. Indeed it gave the example to the other colonies, of these new methods of improving uncivilised men; and has in the present times long shewn an inflexible adherence to them. The following extracts will furnish some new practical corollaries from the enlightened and benevolent proposition, that *Negroes*, and consequently “ *other slaves*, ” are of “ a brutish nature.”

mestic forum of the plantation was sufficiently powerful and active for the government of slaves, without the aid of the civil

“ And whereas many heinous and grievous crimes, as murder, burglaries, “ robbing in the highways, rapes, burning of houses or canes, be many times “ committed by Negroes and other slaves, and many times maliciously at- “ tempted by them to be committed, in which, though by divers accidents they “ are prevented, yet are their crimes nevertheless heinous, and therefore deserve “ the like punishment; and also do many times steal, wilfully kill, maim, or “ destroy one or more horses, mares, geldings, cattle, sheep, or other quick “ or dead thing of the like nature, and of the value of twelve pence, or “ above; and many times, by attempting to steal from the inhabitants of this “ island stock and other goods before mentioned, of above, or under the “ value aforesaid, do put such inhabitants or some of their family in terror, “ dread, and jeopardy of their lives; which several offenders, for danger of “ escape, are not long to be imprisoned, and being brutish slaves deserve not, “ for the baseness of their condition, to be tried by the legal trial of twelve “ men of their peers or neighbourhood, which neither truly can be rightly “ done as the subjects of England are, nor is execution to be delayed towards “ them in case of such horrid crimes committed.”

It is scarcely necessary to add, for the reader’s information, that for all these crimes, or attempts, the Negroes, or other “ brutish slaves,” are to be put to death; and the justices of the peace, who give sentence, are ordered “ forthwith by their warrant to cause execution to be done:”— it is added—“ by some Negro to be pressed for that purpose.”—(See Acts of Barbadoes, No. 329. Sec. xiv. P. C. Rep. Part III. Appendix.)

This law was made in 1688; but it has been seen that, in 1730, a spirit equally bad prevailed in the slave colonies of Great Britain; and lest it should be thought to have degenerated since the age of our fathers, I offer the following very modern example of it in an act passed at the Bahamas in July, 1784:—

“ Whereas many heinous and grievous crimes, such as murder, poisoning, “ burglaries, robberies, rapes, burning and breaking open houses, and other “ felonies, are many times committed by Negro, mulatto, mustee, or Indian “ slaves, or are many times maliciously attempted by them to be committed, “ in which, though by divers accidents they are prevented, yet are their “ crimes nevertheless heinous, and therefore deserve punishment: and “ whereas Negro, mulatto, mustee, and Indian slaves do many times steal, “ wilfully maim, kill, and destroy horses, cattle, sheep, or other things, of the “ value of six shillings, or above, or are accessory to the committing of such “ crimes as are before mentioned, which several offenders, for danger of es- “ cape, ought not to be long imprisoned, and deserve not, for THE BASENESS “ OF THEIR CONDITION, to be tried by the established laws of England, nor is “ execution to be delayed in case of their committing such horrid crimes.”

The enactments are nearly the same with those of the last abstracted act of Barbadoes, such verbal alterations excepted, as shew that the former were not inadvertently copied from the latter. The attempt to commit the

magistrate. While subjected so widely to the authority of a private owner, the power and the duty of regulating their conduct, even in relation to strangers, should to an equal extent have been committed to the same hands; and the master, not the slave, should in most cases have been held responsible to the state, for such public disorders as might arise from the misuse or neglect of his own controlling power.

It is not only highly inconvenient, but cruel and unjust, to subject a man to two independent legislative authorities; because, among other hardships, in case of any incompatibility between the rules which they may respectively prescribe, he has no protection in obedience to the one, against the penalties of contumacy to the other; and when their laws are concurrent, he may incur a double punishment for the same offence: and these are evils to which the slaves are actually exposed.

Some of these principles have been acknowledged even by zealous apologists of West Indian slavery.

M. Malouet, in particular, finds fault with the Code Noir, for subjecting the slave, in cases of theft, and other offences, to penalties as severe as if he had been of free condition. He complains that these penalties were rigidly enforced at Cayenne; though, as he alleges, in no other French colony; and remarks, not only that theft cannot reasonably be considered as a very heinous crime, in men to whom the law denies the right of property, but that it is an offence which the master's power of chastisement might sufficiently restrain. He adds, that, in his opinion, no offences but rebellion, or violence on the part of the slaves, (by which I presume he means personal violence in resistance of the master,) and "great crimes against society," ought to be capitally punished.\*

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specified crimes is made capital, as well as their actual perpetration, and the justices are commanded "to cause immediate execution to be done."

The reader will perceive that the preamble is also in great measure copied from the Barbadoes act; but it was thought too much, I presume, to ascribe "*brutish natures*" to *masteres*, three fourths of whose blood is European, and therefore "*baseness of condition*" is substituted as the reason for the same cruel penalties and modes of proceeding.—(See Act of 7th July, 1784, Sec. i. P. C. Rep. Part III. Tit. Bahama Islands, &c.)

\* "Un esclave sans propriété n'est pas autant obligé qu'un homme libre, à respecter celle d'autrui : le châtiment le content, et suffit seul pour

The French master is in some degree responsible for the conduct of his slaves; being obliged, in cases of theft, or any other offence by them, which occasions damage to others, to make reparation to the injured party; or, as the alternative, when the damage exceeds the value of the offender, to transfer the slave himself to the prosecutor.\* The slave, however, is not left, as he ought in such a case to have been, to the correction of domestic discipline; for the law expressly superadds to this duty of restitution by the master, such corporal punishment of the offender as the magistrate was empowered to inflict.

In this case, as in most other provisions of the Code Noir, except such as are mere declarations of the rules that before prevailed by custom in the colonies, the French legislators borrowed from the Roman; but in a partial and illiberal manner. The *actio noxalis* was a remedy given to a party damaged by the theft, or other offence, of a Roman slave; and in this action he recovered against the master the value of the goods stolen, or the amount of the damage actually sustained; but if the latter chose to give up the offending slave, and assign all his property in him to the plaintiff, the action was thereby discharged.†

If I rightly apprehend the effect of the *actio noxalis*, a recovery of satisfaction in it was also a bar to any criminal proceeding by which the offender might have been subjected to corporal penalties.‡ If he received any punishment, except that of being transferred to a new owner, it must, I conceive, have been by the order of the master himself, not of the magistrate; and there was one consequence of the proceeding, which seems to have been a faulty excess of indulgence towards the criminal, if not positive encouragement to crimes: for if the slave, after being transferred to the injured party, could obtain money to satisfy the damages, he was entitled to demand his enfranchisement.§

“mettre son maître en sûreté. Il me semble qu'il n'y a que la rébellion, la violence de l'esclave, et les grands crimes contre la société, qui exigent la peine de mort.”—(Tome I. p. 366.) \* Code Noir, Art. 37.

† Instit. Just. Lib. iv. Tit. 8. ‡ See Digest, Lib. xlvii. Tit. 10. Sec. 17.

§ Inst. *ubi supra*, Sec. 3. It appears even that the slave, when thus given up, retained his *peculium*; though if the master paid the damages,

For injuries received from a slave, without any loss of property, such as assaults and batteries, or libels, the injured party had, in like manner, his remedy by the *actio noctalis* ; and here the master seems to have had a triple choice, either to suffer his slave to receive an adequate punishment by whipping, the due measure of which the judge was, if necessary, to determine, or to give him up in satisfaction to the prosecutor, or to make pecuniary amends.\*

I do not mean to affirm, that by the Roman law, the slave was generally exempted from the penalties of the same criminal code by which free persons were bound ; and I admit there were cases in which his punishment, like that of free persons of the lowest class, was greater than that to which his lordly master was subject for the same offence. Such were injuries of an affronting or contumelious character, in which the low condition of the offender was held to aggravate the wrong ; at least when committed against a person of superior rank. The criminal law of Rome, however, was, in this respect, far more impartial than that of our colonies : the slave was not there oppressed by a multitude of penalties from which free men were wholly exempt ; and his offences against the master himself were, in general, left to be punished by domestic discipline. Thus, in the case of theft, or other criminal damage to the master's property, the magistrate did not interfere.†

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he might resort to that fund for reimbursement. Digest, Lib. xv. Tit. 1. Sec. 11.

\* Dig. Lib. xlviij. Tit. 10—17.

† Inst. Just. Lib. iv. Tit. 8. Dig. Lib. xlviij. Tit. 19. Sec. 11.

Juvenal enables us to judge of the degree of severity with which such offences were commonly punished by the master ; for, in the licensed exaggeration of satirical poetry, no stronger instance of cruelty in punishment for theft was imagined, than branding the slave with a hot iron, for stealing two napkins, or other articles of linen.

“ Uritur ardenti duo propter lintea ferro.”

Sat. xiv. v. 23.

In some of our colonies, the slave might be hanged for a less offence ; (see an act of Barbadoes, No. 329, and various other acts to which I shall hereafter refer, in the P. C. Rep. Part III. Appendix of Laws,) and branding is the usual mode of marking a newly purchased slave in Jamaica ; not for any offence committed, but merely to give notice of the owner's name, in case of future flight.

A con-

In the English colonies, on the contrary, the law punishes in a slave every crime that is punishable in a free person, whether perpetrated against a stranger, or against the master himself; and many others besides, which arise out of the relation of slavery alone. The slave is also treated as a public criminal, for a great variety of actions which are in their moral nature perfectly innocent, and not prohibited to free persons; and the punishments annexed to his offences are, in many instances, far more severe than those to which free persons are

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A conspiracy against the master's life, however, was very severely punished: (Dig. Lib. xlviii. Tit. 19. Sec. 28.) and his murder, under certain circumstances, exposed his domestic slaves to the penalties of a law, the most barbarous and unjust of any that is to be found among the institutions of ancient Rome.

If the master was murdered in his own house, all the slaves resident therein at the time were liable to be put to death; and on the assassination of Pedanius Secundus, prefect of the city under Nero, by one of his own slaves, this barbarous law was put in force against four hundred persons. No other instance of its execution, however, is recorded in the Roman history; and on this occasion it was not enforced without violent opposition in the senate, and from the people.

The case has been triumphantly cited by the apologists of colonial slavery; but I shall soon have to notice West India laws for the punishment of slaves which are not less cruel and unjust; while their sordid objects make them, if possible, rather more detestable.

In this case, the safety of the lives of the lordly masters, who slept in the midst of a numerous train of slaves lodged within the same walls, seemed to the selfish feelings of a majority of the senators, an end momentous enough to justify extreme severity in the means. The alleged reason of the law, however, was a strong presumption, that the slaves could not be innocent in such a case, of having abetted, or at least connived at the crime, as clearly appears from the arguments by which, according to Tacitus, the execution of the slaves of Pedanius Secundus was supported in the senate. (Annal. Lib. xiv. Sec. 43, 44.)

But the law, though thus *once* executed in cruel times, was probably made *in terrorem* only; and even in the worst age of Rome, its execution excited a popular indignation so vehement, that a multitude of citizens, armed with stones and firebrands, forcibly opposed it, till they were dispersed by the military; and Nero was at last obliged to line all the streets through which the condemned slaves were to pass with soldiers. Would to God that the poor Negroes, when oppressed, met an equal sympathy from the white commonalty of the West Indies!—Their wrongs would then be near their termination; but in that country, the cruel antipathy of the white plebeians keeps pace with, and even surpasses, the severity of the laws.

subject in like cases, for equal violations of the law; while the master is irresponsible for the offences committed by his slave, though the natural fruit perhaps of his own neglect or oppression. But these propositions deserve to be separately examined and proved.

First,— The slave is generally subject, in common with free persons, to the whole criminal code of this country, as far as it is in force in the colony to which he belongs; and likewise to every penal act of assembly made for the government of the free colonists, except where he is expressly distinguished from them by the provisions of those insular laws; which he never is but to his prejudice.\*

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\* Question of Privy Council, A. No. 3.—“ For what offences are slaves subject to their master’s correction; for what are they amenable to the established jurisdiction of the island; and in what manner are they tried?”

Extract from answer by the agent for Grenada and St. Christopher.— “ With respect to offences committed within the same plantation, the master may punish his slave for any offence, &c. With respect to greater offences, such as murder, burglary, rape, &c. he is tried in the Court of King’s Bench, or at the sessions, according to the criminal law of England and their owners may try them for these offences in the same courts,” &c. Answer by the Governor of Grenada.—“ Slaves are amenable for all offences to the established jurisdiction of the island; and for all offences to others, are tried in all courts as other delinquents are.”

Extract from answer by the Council and Assembly of St. Christopher.— “ A slave and a white person, or free person of colour, are equally liable to punishment for all offences against the criminal law of the land. The white and free person are tried, as in England, by jury, and the slave by two or more justices of the peace.”

Answer by the agent for Barbadoes.—“ I do not know of any law that limits the master’s power of correction, either with respect to the offence or the mode of punishment; but the Negro, for murder or theft, and all civil offences, is amenable to the established jurisdiction of the island: though the master does not always appeal to this jurisdiction, in the case of offences committed against himself or his family.”

Extract from answer of the agent for Jamaica and planters of that island.—“ For all small misdemeanours against their master, or their fellow slaves, by the master or overseer; for murder, rebellion, and capital crimes, subject to the jurisdiction of the island, &c.— tried by two justices of peace and three freeholders, &c. Those offences in general which are capital in England, are capital in Jamaica,” &c. (P.C. Rep. Part III. Question, A. No. 3. Titles of the respective islands.)

Were such a rule in other respects just, it would still have been felt by all but West India lawgivers, to be extremely hard, to subject a newly-imported African to the vengeance of laws of which he could not possibly be apprised; and to the whole penal code of a highly civilized society. If his native moral character had been as low as his oppressors falsely assert, it would have been so much the more reasonable to teach him a little law at least, if not any religion or morals, before he was subjected to the same criminal code by which men educated in a Christian land are governed. Yet I am not aware, that even a brief period was allowed to him in any of our islands, while an African could be lawfully imported, to give him the chance of hearing of the new laws by which he was bound, before he could be condemned for a breach of them; except in the case of a crime created by the colonial acts alone, desertion from the master's estate. He was, I admit, to be domiciled six months in some colonies, and twelve months in others, before he could be hanged for the foul offence of running away from the drivers or the stocks.\*

The liability to the same punishments for breach of the

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\* All the West India codes, however, were not so indulgent.

“ And for the future be it enacted, that *what slaves soever* shall absent themselves from their master's or mistress's service, during the space of three months or upwards, *shall be punished with death, loss of limb or member, or public whipping, at the discretion of two justices of peace, whom the said offending slave shall be brought before.*” (Act of Antigua, No. 130. Sec. 16. P.C. Rep. Part. III. Appendix.)

Though I do not find any repeal of this act among the slave laws laid before parliament, I doubt not that it is obsolete in practice as to capital punishments or mutilations, from the character of this colony to which I have already done justice.

“ And be it further provided and enacted, that any *Negro or slave, within this island*, that shall absent themselves from their master's or mistress's service, for the space of three months, and afterwards be taken and convicted thereof, *shall suffer death as a felon*, any law, usage, or custom to the contrary notwithstanding.” (Act of Montserrat, No. 36, Sec. 13. ibid.)

: Here also I am ignorant of any repeal; and though I think it probable that so cruel a law has not very recently been executed, I have no other reason for that opinion than the general fact, that there has been a fear throughout the West Indies of late years of the effect that public and judicial severities against slaves might produce in this country.

laws with those persons who ought to know, and who are fully protected by them, constitutes however but a small part of the injustice of the criminal code, towards the enslaved Negro ; for —

Secondly ; he is treated as an offender against society, for acts which amount only to violations of his private duties as a slave. Such is the case last adverted to. The crime of desertion recently was, by the laws of every island, and I believe still is in some of them, punishable with death. Even in Jamaica the latest edition of its Meliorating Act has not wholly taken away that reproach. \*

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\* In Jamaica, and some other islands, there was a progressive severity in this case, as in many others, which is well worth attention, because it may help to correct the error of many in this country, who have been taught to believe, that the cruelty of the West India slave laws is chargeable alone on the rude and ignorant men who first settled in our islands, and not on such legislators as the modern members of the colonial councils and assemblies ; for it will be found that, in this instance at least, humanity did not advance with refinement and wealth.

By an act of Jamaica, of 1696, slaves which had been *three years* on the island, were, if they ran away, and continued absent from their masters *twelve months*, declared to be rebellious ; but *transportation* was the only penalty ; a punishment which, as we have seen, the master himself, or even his creditors, may at pleasure impose on the innocent. (Printed Book of Laws, Vol. I. Act No. 38, Sec. 19.)

In 1717 the legislature of the same island narrowed the term of exemption allowed to new-imported slaves, from *three years to one* ; and subjected runaways, who had been absent *thirty days*, after having been one year on the island, to have *one of their feet cut off*. (Same Vol. Act No. 64, Sec. 5.)

By another act, of 1749, further penalties were imposed on native slaves of eighteen years old and upwards, and on imported slaves, who had been three years resident, for the offence of running away, if they continued absent for six months ; they were now treated as capital offenders, and were, upon conviction, to suffer *death*, or such other punishment as a majority of the members of the slave court should think fit to inflict. (Same Vol. Act No. 159. Sec. 1.

The punishment of servile accomplices in this grand offence, was also progressively enhanced in Jamaica, and in a still greater degree ; for, by the law of 1696, a slave who harboured or entertained a fugitive, was liable to a *whipping only*, (No. 38, *ub. sup.* Sec. 17) whereas, by that of 1749, the same offence was made punishable with *death* ; nor was there the same qualification here, as in the case of the fugitive himself, either in respect of age, time of residence in the island, or length of absence. “ Knowingly to ‘ harbour, conceal, or entertain any runaway Negro, Indian, or mulatto ‘ slave,’ was in any slave of the same descriptions, (but I beg it may be re-

## The going beyond the limits of the plantation without per-

marked, in the case of a slave only,) made a capital offence. (Act No. 159, ub. sub. Sec. 4.)

Thus, in both cases, the law of Jamaica continued till the much boasted Consolidation Act of 1788, when, with the usual address of the ostensible law makers, the express mention of death was omitted in the discretionary power of the court; but it was enacted that "all slaves who shall have been " in this island for the space of *two years*, and shall run away, and continue " absent for the term of six months, shall be liable to be tried by two " justices; and, upon conviction thereof, such slave or slaves shall suffer " such punishment as the said justices shall think proper to inflict." —

The same clause appears unaltered in the act of 1792, sect. 42. a law which, be it always remembered, was boasted of, both by Mr. B. Edwards and the Assembly, as the *ne plus ultra* of legislative humanity towards slaves. And should it be questioned, whether this discretionary range of punishment was meant to extend to death, the next section may remove all doubts on that point; for the legislature, meaning of course to impose milder penalties on runaways, who had *not* been resident two years on the island, declared, that "any slave who should run away, and be absent during the " like term of six months, should be sentenced to be *confined to hard labour* " for such time as the court should determine, or to be transported for life." (Sec. 43.) Other clauses of the same act will be found on a reference to them, also clearly to mark the intended construction: especially section 28th, which imposes penalties on slaves for harbouring or concealing runaways.—The meliorating act of 1788 had, in this case, referred the punishment to the discretion of the justices, in the same terms as are above cited in regard to the fugitives themselves; but in the act of 1792, the words, "not extending to life or limb," are added: and Mr. Edwards takes care to mark them in italics, as one of the improvements in point of humanity in the last consolidating act.

A similar restriction, after a like discretionary power in the court, occurs also in sec. 46: and if the reader still hesitates, from prepossession in favour of legislative bodies, which so confidently boast the humanity of their slave laws, let me refer him further to Sec. 67. He will there find the pains of death expressly annexed to crimes of the same species with, and which can hardly be regarded as of a higher degree than, that in question; viz. to the running away of "any slave" whatever, when coupled with the "going off, or conspiring, or attempting, to go off from the island," and even to "the aiding, abetting, or assisting, any other slave in going off " the island."

Down to the period of 1792, then there was no refluent tide of feeling on this subject, even in that legislative body, which from the extent and importance of the colony under its jurisdiction, may be reasonably expected to be the most enlightened and liberal of the West Indian assemblies. It was still thought not too much to punish the hapless fugitive, exercising

mission, by a note in writing from the master, is another

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the rights of nature, to escape perhaps from a merciless master's cruelties, with death.

It is peculiarly impressive to find such cruel enactments in these meliorating acts, for their authors certainly designed to make the letter of the law at least as merciful as they meant the practice to be; and yet I may defy the apologists of this slavery to find in the codes of any other country, ancient or modern, an example of such barbarity.

To the latest emendations of this Jamaica act, the same censure applies, and the same challenge might be offered in regard to them. The Act of 1809 indeed limits the discretion of the court, when the fugitive has been two years on the island, to hard labour for an indefinite time, or transportation for life (Sect. 49.); and when he has not been so long resident, to flogging or hard labour for three months. (Sect. 50.) The last Act, that of Dec. 1816, has not mitigated these penalties, but increased them, by enacting, that if the fugitive has frequently run away, and is *declared by his owner or possessor to be incorrigible*, he shall be either kept to hard labour, or transported for life. (Sect. 62, 63, 64.) *But the case of the fugitive slave going off, or attempting or conspiring to go off the island (which of course every fugitive will do if he can) is still made punishable with death, as under the former law.* (Act of 1809, Sect. 58.; and Act of 1816, Sect. 74.)

Now let it be shewn that human oppression and cruelty have, in any parts of the known world, except in these Christian colonies, punished desertion, though beyond the territory, with death, except when to a public enemy. Such also is the equality and justice of these last and best fruits of the best colonial legislation, that while the *servile accessory* to this offence is punishable with *death*, and the *free coloured accessory* with *transportation*, the *white accessory's* punishment is limited to *a fine of 300l. currency*, and imprisonment *not exceeding twelve months*. (Act of 1809, Sect. 59, 60. Act of 1816, Sect. 75, 76.)

In Barbadoes, the running away for thirty days, by a slave who had been one year on the island, was made a capital offence, by an act passed so early as 1676; but it would appear, that its execution had inspired some temporary remorse in its authors; for it is recited in an act of 1692, that "*after some negroes had suffered death for running away as aforesaid*," the penalty had been repealed; but now the legislature finding such to be "*the brutish and barbarous nature of slaves, that they would not be reclaimed by any FAIR MEANS*," relapsed into the former severity, and adopted again the *foul means* of putting fugitives to death as before. (Act of 1692, No. 377. P. C. Rep. Part III. Appendix of Laws, tit. Barbadoes.)

This law, for any thing I know or believe to the contrary, continues in force to the present hour.

By an act of St. Vincent, made in 1767, it is enacted, that the runaway who, after having been one year in the island, shall be absent six months, either at one time, or at several times within two successive years, shall be *guilty of felony, and suffer death as a felon.* (See this Act also in the same

heinous offence, which municipal law avenges \* ; and to depart from the island is death, not only to the fugitive, but to every servile accomplice.†

It may perhaps be alleged, that these violations of the private duties of a slave are not punished by the law as such, but rather as offences dangerous to the public safety of the islands. Some of the meliorating acts have speciously recited such views, as apologies for their severity against runaways, or wandering slaves ; and I admit that apprehensions of public danger may in some islands, as in Jamaica, where maroonage in the mountains was of a troublesome extent, have been among the true motives ; but that the loss sustained by the owners, in the privation of their property in the fugitives, or through the suspension of their labours, was the leading consideration with an assembly of slave-masters, cannot well be doubted ; and might clearly be discovered so to have been, from a particular examination of the provisions of these runaway

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Appendix, title St. Vincent, Sect. 34.) This law is also, I believe, unrepealed.

It would be equally troublesome and disgusting to cite the punishments which have been imposed for the same offence by the laws of every colony. They are in general equally, or almost equally, severe with those that I have cited.

In most islands also the hunting down runaway negroes, and bringing them in dead or alive, has been encouraged by acts of assembly ; and in some instances the bounty for killing them was made as great as for bringing them in alive. (See Act of Barbadoes, No. 329. Sect. 21., and many others under the proper titles in the P. C. Report.) If I am not greatly misinformed, the law and practice of our newly acquired colonies in Guiana is equally barbarous, and the Indians on the back borders of Demerara are only required to bring in an arm of the murdered fugitive, to entitle them to the reward. It is added, that on account of the climate and distance, *pickled arms* are received.

\* (Act of Barbadoes, No. 329. P. C. Rep. Part III. tit. Barbadoes, Appendix, and see the laws of other islands to the same effect.)

It is just to mention, that the last meliorating acts of Jamaica have treated this offence as the fault of the master only ; subjecting him to a fine of forty shillings, without imposing any punishment on the slave ; except it appears that he went without the master's consent. In some other islands, as formerly in Jamaica itself, the negro who goes to visit his wife or children on a different plantation, though by his master's verbal consent, or who is sent even by his verbal order on an errand, is liable by law to a public whipping.

† See last note, and Sect. 74, &c., of the last meliorating act of Jamaica.

laws. To what other principle, for instance, can we describe the severity, still adhered to, of punishing with death a departure from the island ? As far as the public safety is concerned, the migration of the runaway from the colony is a deliverance from, rather than an aggravation of, the dangers arising from his desertion.

But supposing it should be granted, that public policy is the only principle of these laws, they would not on that account be the less severe towards the slave, nor the less opprobrious to the lawgivers ; for their necessity can only have arisen, like other parts of this oppressive system, from the peculiarly painful and intolerable nature of that slavery to which the negro is reduced.

Slaves have been as numerous in other countries, in proportion to the free inhabitants. They were so at Rome, at Athens, and even in this island. The means of flight and absconditure have also elsewhere been as great, or rather much more abundant. But where, except in the West Indies or America, was a fugitive slave ever punished with death, by the law, merely for quitting his master's service?

The laws of some of our islands have gone still further than punishing the private trespasses of these wretched bondmen as crimes against the state ; they have not only avenged domestic offences committed by the slave, when prosecuted before the civil magistrate ; but, when no such offence is either proved or alleged before any public tribunal, have abetted and aided the master in avenging it by some of his most odious oppressions.

In the punishment of serious faults, but chiefly that of running away, it has been a frequent practice by masters in the West Indies to load the naked bodies of their slaves with chains, weights, and other incumbrances of iron ; and, among others, with a collar of that metal, rivetted round the neck, with three long projecting rods attached to it at equal distances, and hooked at the opposite extremities ; which rods, as they somewhat resemble pot-hooks, have given that name to the instrument. The unfortunate wearer of it cannot lie down without suffering great inconvenience and pain ; for to whichever side he turns, the projecting rods meet the ground, forming a kind of triangle, in the centre of which the neck is

suspended by the galling iron collar, and the head of course, kept in an uneasy elevation.\*

This oppression, like most other of the abuses of the master's power, has, I admit, been suggested in general by an unfeeling regard to his interest, rather than any love of cruelty for its own sake. The pot-hooks have been chiefly applied to negroes much addicted to running away; for the same reason that a clog is often attached to the fetlock of a horse on a common; though they have also sometimes been used as a mode of punishment.† The projecting spikes, and their hooked

\* The following extract from Dr. Pinckard's Notes on the West Indies (Vol. II. p. 383, 384.) will give a tolerably accurate idea of this instrument, as it attracted the notice of a stranger:—"In my walk to the negro yard, " I met a slave who appeared under a peculiar mode of punishment, being " compelled to wear an iron collar, with three long spikes of iron project- " ing from it in sharpened points, to the distance of eight or ten inches " from his person. What crime had led to this strange method of punish- " ment, I did not learn. The poor man not only suffered the annoyance of " moving about loaded with this heavy collar, but he was effectually pre- " vented from lying down, and from approaching near to any person, " without the danger of injuring him with the sharp points of his iron yoke."

It would appear from the last clause of this account that the latest improvement on this instrument, as then used in our islands, the hooks at the extremities of the rods, had not yet been adopted at Berbice.

† "Resolved, That as an improper practice hath some time prevailed, of " punishing ill-disposed slaves, and such as are apt to abscond from their " owners, by affixing round the necks of such slaves an iron collar, with " projecting bars or hooks, or an iron collar, with a chain and weight " thereto annexed, in order to prevent the future desertion of such slaves, " or by way of additional punishment; that such practice ought to be de- " clared unlawful," &c. (Minutes of the General Council and Assembly of the Leeward Islands, March 15. 1798. Papers of 1804, 47 H.)

" Whereas a mischievous practice hath sometimes prevailed, of *punish- " ing ill disposed slaves*, and such as are apt to abscond from their owners, " by fixing, or causing to be fixed, round the necks of such slaves an iron " collar, with projecting *bars or hooks*, to prevent the future desertion of " such slaves." (Jamaica Act of 1792, Sect. 15.)

The meliorating acts of Jamaica, the Leeward Islands, and Bahama, accordingly affected to prohibit this cruel and shocking practice; but the prohibitions are illusory, or at least useless; not only from practical defects, which will be hereafter pointed out in a chapter upon these meliorating laws in general, but from an exception which, in the judgment of West India magistrates, is probably as broad as the prohibitory rule itself. The prohibition in the act of the Leeward Islands is, "to fix round the neck

points render it difficult for a fugitive to make his way through the woods or cane pieces, and thereby insure his capture when pursued by the hunters.

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“ of any slave any iron collar, with projecting bars or hooks, or any collar  
“ with a chain or weight thereto, or shall put or fix upon any slave any  
“ chain, or any piece or ring of iron, either round the leg, or any other  
“ part of the body of such slave, *other than such as are absolutely necessary*  
“ *for securing the person of such slave*; and it shall and may be lawful for  
“ any justice of peace, on information or view of the same, to order such  
“ collar, chain, weight, hooks, bars, and rings, *other than such as are neces-*  
“ *sary as aforesaid*, to be taken off such slave, at the expence of the owner,  
“ &c. (Act of the Leeward Islands, 1798, Sect. 18. Same Papers, H. 20.)  
The other two acts had, and that of the Bahamas still has, the same exception. (See Act of Jamaica, ubi sup. an Act of Bahama of 1797, Sect. 15. Papers of 1804, B. 6. and Papers of 5th April, 1816, p. 18.

Here again the Jamaica Assembly, by a secret sympathy between its progressive spirit of improvement, and the progressive strictures of this work, has obliged me to guard my accuracy in the estimation of my readers by a further trial of their patience. The above comment was printed as it now stands in reference to their first and second Melioration Acts. Before my resumption of the work in 1816, the Act of 1809 was passed, and the exception of such of these instruments, “ *as are necessary for securing the person of the slave*” was omitted, but the following exception was substituted, “ *other than a light collar without hooks, to indicate that such slave is an incorrigible runaway.*” In the printed continuation of my work, pretty extensively circulated in that year, I gave the assembly credit for that improvement, but added, “ *It is not easy to see why even an iron collar should for this purpose be permitted. The master can stand in need of no such intimidation; and as to the police, it subjects every slave whose master is unknown, or who is found beyond the limits of a plantation without a note in writing from the owner or manager, to be treated as a deserter till claimed. He would not be the more liable to be sent to the workhouse, and put on the slave chain, from having an iron collar on his neck.*”

I am amused to find the effect of this unpublished stricture, in the last edition of this Act, that of December, 1816, in the additional words after the word *runaway*, “ *or one accustomed to commit depredation on grounds of the other negroes.*” Here again I might reasonably ask, what can be the use of this alternative designation, except to anticipate and baffle the stricture the publication of which was expected? The other negroes of the estate could not want such a notice; nor could a magistrate act upon it. Besides, what becomes of the pretence for the exception in the two first Meliorating Acts, still retained in the other Islands, that of “ *securing the person of the slave?*”

There is however a further amendment, that the collar must be put on by the directions of a magistrate. This I admit to be an improvement; though probably there will be little difficulty in any case to get the sanc-

I even do the masters the justice to believe, that most of them would prefer attaining the same end, that of securing the value of the slave's labour, without putting him to the torture of wearing pot-hooks. The son of Adam might even be as tenderly treated in this respect, as a mischievous hog is in some parts of this kingdom, by being indulged with a light wooden triangular collar, (a practice from which the idea of pot-hooks was apparently taken,) if it were not for his superior sagacity and resources: but in this, as in many other instances, man, when treated on the same principles which we apply to the government of brutes, must undergo many subsidiary oppressions from which the latter is exempt, in order to disarm and subdue that reason, with which the human animal, unfortunately for him, continues to be endued. Nothing but iron and rivets can, in his case, prevent his disengaging himself from the uneasy impediment; and to take off an iron collar every evening, would not only be too troublesome, in the treatment of a man who is to be thus restrained

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tion of some neighbouring planter in the commission of the peace, when a master thinks fit to apply for it. In no other island to my knowledge is there yet any such restriction.

It is impossible to believe, that these "*mischievous practices*," as they are justly called by the Acts of Jamaica, if unnecessary in that large island, can be necessary in the small and fully peopled islands of Antigua, Montserrat, Nevis, St. Christopher, and Tortola. Yet their meliorating act supposes that such odious severities may be necessary to prevent desertion, and therefore in effect leaves their use to the discretion of the master. It is only when the chains, collars with hooks, &c. are not necessary for that purpose, that a justice of the peace is empowered to take them off; and only when the master "*has acted wantonly and cruelly in putting them on*," or "*was not influenced solely by the motive of preventing future desertion*," that he is liable to any legal censures. In those cases, he may be bound over, prosecuted in the Court of King's Bench, and subjected on conviction to a fine. (Meliorating Act of the Leeward Islands. Papers of 5th April, 1816, p. 160, 161.) But the legislature having recognized the probable necessity of such means to secure a slave's person and prevent desertion, what magistrate would presume to say for a penal purpose, not only that they could not be necessary in the particular case, (which must obviously much depend on the slave's former habits, his character, and peculiar means of escape,) but also that the master to whom all these circumstances must be best known, could not have been of a contrary opinion.

for years, or during life perhaps, but would favour nocturnal escapes.

But though the master, impelled by avarice or self-interest, might feel no remorse at using such barbarous means of restraint, legislative assemblies, it may be supposed, could never have distinctly adverted to, without condemning, the practice.

Quite the contrary. Some of them have expressly encouraged and abetted it. The miserable wearer of pot-hooks and other irons, having sometimes found relief, through the compassion of free persons or slaves, who assisted him in taking off these instruments, and thereby enabled him again to escape from his tyrant; laws were passed, in some islands, to make such acts of charity penal. The offence of taking off hooks or irons from the neck of another man's negro, was, if committed by a free person, punished by a pecuniary fine; and if by a slave, with a severe public whipping, which the magistrates were required to adjudge.\*

I will not detain the reader with any more specimens of laws, by which the private offence of a slave against his

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\* Act of St. Vincent's, of 1767, Sect. 23. Act of Barbadoes, No. 552. Sect. 9. (P. C. Rep. Part III. Appendix.)

I know not whether there are any such laws in the now English colony of Demerara; but if there are, an intelligent author whom I lately cited, exercised his humanity at some peril; for Dr. Pinckard gives, in his 5d vol, p. 267., the following anecdote:—"I recognised in him an unhappy slave " whom, in one of my walks in Mahaica, I had met wandering in a cotton " field, bearing a heavy iron collar about his neck, with three long iron spikes " projecting from it, terminating in sharp points at the distance of nearly " a foot and a half from his person, and with his body flogged into deep " ulcers from his loins to his hams. In this state, and almost starving with " hunger, he appealed to my feelings. Humanity pleaded in his behalf, and " without too scrupulous an enquiry into the whys and wherefores of the " punishment, its tender dictates were obeyed. The poor man followed " me to the fort; the soldiers grew indignant on seeing his naked sores, " and the impulse of their feelings not being opposed, his neck was quickly " freed from its load, and the massive yoke and its spikes were speedily " converted into pot-hooks for the use of the mess. Thus made happy, the " thankful slave had now found his way to my home at La Bougard, in " order to make his further acknowledgments, and to tender me his " services."

master is treated as a public crime; but—Thirdly, there are many, which, with a directly opposite view, and in a spirit strikingly characteristic of West India justice, punish slaves, and slaves only, for acts perfectly innocent in their moral nature, though performed with the master's approbation, and presumably by his command; nay, sometimes, when the compulsion, arising from his order, expressly appears. There are, for instance, in almost every island, laws which prohibit slaves from buying and selling in the markets, with the exceptions of certain articles; from raising specified vegetable products on their own provision grounds; and from owning, or having in possession, certain species of live stock.\* Some of the first of these descriptions of laws, indeed, allow a special *written* licence, or ticket from the master, to privilege the traffic of the slave; but his verbal consent or order, or even a general licence in writing, does not save his sable dependent from forfeiture or corporal punishment.

In order to make these severe peculiarities of the West India slave codes intelligible, and to treat their authors fairly, I must observe, that acts of this nature have arisen from two very distinct motives; the one, an anxiety to prevent thefts and other dishonest practices by slaves, and also their being made instruments of such offences, as from their baneful incapacity to give evidence, they very conveniently may, by free persons; the other, a dislike to see negroes employed, though on account of their masters, in the creditable arts of commerce, to the disadvantage perhaps of the white merchant, or shopkeeper, who, in the retail trade of the island, might be in some degree rivalled by these industrious agents; for persons of various professions, and of both sexes, in the colonies, occasionally import goods, or buy them by wholesale, with a

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\* Acts of Barbadoes, No. 552. Sect. 1, 2. No. 164. Sect. 4. Acts of Bermuda, 1691 and 1730, Sect. 2, 3. Act of Bahama Islands, 1784, Sect. 7, 8. Act of Virgin Islands, 1785, Sect. 41. All in the Privy Council Reports.

Similar laws existed, and do not appear to have been repealed, in most of our other islands. In Jamaica, they did exist till 1790; but the later consolidation acts of that island not containing any clearly objectionable clauses of this kind, I willingly admit that its slave-law is no longer liable to the same reproach.

view to the profits of retailing them by means of their negroes. — Pride as well as indolence, may distinguish between merely sending a slave out to sell goods as a huckster, and making him an avowed agent by a special licence in writing. The principle of police, however, is the only one that appears from the recital of the acts themselves.

Theft is certainly a very frequent crime in the West Indies, in respect of articles of food, the cause of which will hereafter too clearly appear; but goods, which cannot be applied to the sustentation of the thief without a previous conversion into money, are perhaps not more frequently stolen there, notwithstanding the perfect openness of every dwelling by day, and the great neglect of fastenings by night, than in this country.

There is a security against felonies in our small islands, as in small country towns in England, arising from the difficulty found by the thief in selling his booty; for the free members of the community are so well known to each other, and the publicity of manners is so great, that a receiver of, and dealer in, stolen goods, could not long carry on his trade without detection. That such characters may occasionally be found there I do not dispute; but it is owing alone to the total want of police, and the impotence of the laws, in relation to white offenders. There can, consequently, be no good reason for any extraordinary and harsh precautions to protect property in goods, of which slaves are not the consumers; much less for such a very rigorous and unprecedented measure, as an interdiction of all traffic in such goods to every slave in the community; yet the law has been qualified in some colonies only by the exception of a trade under written licences of a most inconvenient particularity, and in others has had no qualification at all. It is natural, therefore, to suspect some further motive in the legislatures than a mere anxiety to secure property from theft.\*

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\* An act made in 1737, at Nevis, seems to have disguised the true spirit of these prohibitions with pre-eminent industry, but with great singularity of conception: for it recites, as the special mischief arising from the allowing slaves to keep shops, which they then frequently did in that island, that it was "*an encouragement to steal from their masters.*" The

The prohibitions of raising and owning certain articles of agricultural produce, and live stock, have in general, I admit, been founded on a real apprehension that dishonest traffic in such articles might be carried on by slaves, under colour of that property which they might be allowed to possess in goods of the same species. But what a cruel remedy is this, and how revolting to every feeling of justice! The indigent many are violently deprived of the benefit of their little possessions, lest the opulent few should want any possible security against theft or peculation. The poor in every country are those who have peculiar temptations to steal; but who ever heard of any law that excluded them from the use or acquisition of any species of property which by honest industry they might obtain, merely because it is a species of property very liable to be stolen; and on what principle of justice, can slaves be distinguished from free paupers, in a case of this kind? In the West Indies, it is not thought enough that municipal law has denied to the unfortunate negro the right of property, as between himself and the person in whose extreme authority all his civil capacities are absorbed. The same law interferes with and arrests that authority, when it is indulgently exercised; despotically forbidding to the slave the use of property which the master has given, or has permitted him to acquire and enjoy.

It is curious to compare with each other, the laws, ancient and modern, of our different islands, which have introduced such prohibitions; for with a great variety in their subjects, there is a remarkable uniformity in their sordid and arbitrary spirit.

Their general maxim is, that whatever articles the planters

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property of the master was, therefore, protected in his own despite! for slaves were absolutely prohibited in future, "to keep any shop, or to sell any goods, wares, or merchandizes, either for themselves, or for their owners, or for any other persons," either in town or country; but there is a proviso, enabling them, nevertheless, to sell, without mention of any permission from the master, fresh meat, poultry, or any produce or manufacture of the island, rum excepted; descriptions which comprise, with that single exception, *all the articles of which a planter can commonly be robbed.*

may raise for profit, slaves shall not be suffered, in the same island, to raise or possess at all.

Accordingly, in colonies wherein the planters cultivate nothing but the sugar-cane, slaves are not restricted from raising or possessing any other species of produce than sugar, molasses, or rum. They may there freely raise such small quantities of cotton, or other exportable articles, as their petty allotments of ground will yield; and carry it to town for sale. But when the planters of St. Christopher, about thirty-five years ago, in consequence of some repeated failures of their sugar crops, made, for the first time, an unsuccessful trial of cotton, immediately all slaves were prohibited by law to plant that article, to sell it, or have it in possession.\* So also in another Leeward island, when indigo, cotton, ginger, coffee, and cocoa were all cultivated there by the planters, masters were expressly prohibited from suffering their slaves to raise any of those articles; and any of them, when found in a negro's possession, were liable to be seized and forfeited, notwithstanding the master's licence; unless proved on oath not to belong to a slave.†

In Barbadoes, ginger, as well as cotton, has long been a staple production. An act of that island; therefore, reciting, that it is very inconvenient to the inhabitants, especially to the cotton and ginger planters, that slaves should be at liberty to plant those articles, absolutely prohibited their being planted by them, except for the master's use; and declared that any ginger or cotton, which should thereafter be found in the possession of a slave, should be deemed stolen goods.‡

In Jamaica, where there is much pasture land, the breeding of horses and mules is a source of agricultural profit to the planters: here, therefore, slaves were forbidden to own any horse, mare, mule, or gelding; and heavy penalties were imposed on any planter who might be disposed to encourage

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\* Printed Book of Laws of St. Christopher, Act of 1788, entitled "An Act to encourage the Cultivation of Cotton in this Island."

† Laws of Montserrat, anno 1736, No. 112. The same rule as to cotton in Antigua, Act anno 1725. No. 176. Sect. 34.

‡ Act, No. 164. Sect. 4.

the industry of any head slave upon his pen, by permitting him to acquire such property. The master was even obliged annually to swear that none of his slaves owned, or were reputed to own (*i. e.* possess by his permission) any animal of these prohibited descriptions.\* A like prohibition exists in the Virgin Islands, as to cattle: and from a like cause.†

In St. Vincent's, upon the same principle, the restriction comprises cocoa and coffee, as well as cotton and ginger; and to possess them there also subjects a slave to the same punishment as the receiving stolen goods.‡

In Bermuda, where vegetable provisions, and small live stock, are staple articles, the slaves are absolutely interdicted from raising any species of either for their own use; even though they should have their master's permission.§

The same spirit seems to have suggested an act of the Bahama islands, where there is abundance of vacant lands, and where, at the time of passing the act, the settlers were planting experimentally various articles, without having yet discovered which of them their soil was fittest to produce; for slaves were thereby prohibited from cultivating such vacant lands, by their own industry, and for their own use, without any exception even in favour of articles of food necessary for their subsistence; and the little plantations they had made on such vacant lands were cruelly directed to be destroyed.||

\* Meliorating Act of Jamaica, 1792, Sect. 62, 63, and 64.

† Act of 1783, Sect. 41.

‡ Act of 1767, Sect. 22.

§ "And be it further enacted by the authority aforesaid, that no master or owner of any negro or negroes, or other slave or slaves, shall at any time hereafter give him, her, or them, the liberty or allowance to plant, sow, or set any tobacco, corn, potatoes, or other provisions, for the proper use, benefit, or profit of the said negroes or slaves, under the penalty," &c. "Neither shall allow any of them liberty to raise any sort of stock, poultry, or provisions, or other things, or make any sort of cloth, to his or their own use and uses, or upon parts; and if any person shall presume so to do, the owner or possessors of any such slave, suffered to offend as aforesaid, shall forfeit and pay for every such offence, &c.; and the negro or other slave shall be whipt at the justice's discretion." (Acts of Bermuda, 1691 and 1730, Sect. 2. P. C. Rep. Part III. tit. Bermuda, Appendix.)

|| Act of 1784, Sect. 11. P. C. Rep. Part. III. Appendix, tit. Bahamas, &c. It appears, however, that these restrictions as to raising provisions, are either

Such is the uniformity of principle upon which these oppressive laws, in so many different British colonies, have been framed.

And here let me offer a remark, to which I shall have occasion hereafter to recur in a more general view. These slave laws, what are they in general but emanations from the selfish feelings of the planters, who always constitute a great majority of the West India Councils and Assemblies, and of the freeholders by whom the latter are elected? It must be evident to every reflecting mind, that the class of laws which has just been exemplified, has been framed upon narrow and illiberal views, adverse to the commercial, but still more to the political, interests of the islands. Humanity apart, what can be more desirable, in regard to public security, than that the despair of slavery should be thawed by examples of successful industry among the plantation negroes; except the still greater advantage, that those successes would be chiefly or solely reaped by the most able-bodied and intelligent slaves of the gang, whose influence among their comrades is naturally great and decisive? The price of almost every pound of cotton or ginger that they might raise and sell would be laid out in articles imported from England, and would become, at the same time, a premium for industry, and a pledge for peaceable conduct.

But the selfish consideration is, that if a slave were allowed to raise cotton or ginger, &c. on his little allotment of land, the free planter of those articles might occasionally be robbed of them, because the receiver of stolen goods may buy them, and allege that he bought them from slaves, supposing them to be their own property; a pretext which, from the inadmissibility of servile evidence, is not easily refuted. It is a short, and a sure course, therefore, to enact that slaves shall not raise or sell such articles at all. It is true, that other obvious expedients might be found; such as requiring a certificate of the growth of the commodities from the master, and prohibiting the sale of them, except in a public way, or in the presence of public officers: but the jealous avarice of the

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repealed or disused; but I fear it was not till the lands in those colonies were found not applicable to any more profitable use.

self-interested legislators, would admit of no such compromise; the extreme remedy of a total prohibition promised the most effectual security, and therefore that unjust remedy was applied.

It would be in vain to search in the slave codes of other countries, even perhaps in those of the foreign West Indies, for oppression of the same kind as this, or founded on the same sordid principle; the reason of which, as well as of many other distinctions opprobrious to our colonies, may be found in the legislative power having been absurdly and cruelly intrusted to their petty assemblies.

Various other regulations of police might be instanced among the penal laws of our islands, by which, though the master abets a prohibited act, which, considering the nature of his authority, is in effect to command it, and though he is fined for so doing, yet the slave is also treated as a criminal, and subjected to corporal punishment \*; a severity evidently useless and impolitic, as well as unjust; for in such cases an adequate penalty imposed upon the master is plainly the only effectual preventative, and to punish the slave, can tend only to lessen his reverence for that private authority which is inexorably upheld against him by so many sanguinary laws.

Fourthly. Slaves are punished for mere civil trespasses, and trifling misdemeanours, or for actions in their nature quite innocent, with a severity that is reserved in England for petty larceny, and other infamous crimes.

The instances of such rigour are far too many to be here fully enumerated. Some of them have been already noticed;

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\* By an Act of the Virgin Islands, passed in 1783, Sect. 29., the owners of negroes employed as common porters are required to enter their names in a public office, and to take out for them a badge or ticket: "And if the owners, in violation of this law, shall allow or countenance any slave to perform the work or trade of a porter, contrary to the regulations of the act, the owner is to forfeit 5*l.* for the first offence, 10*l.* for the second," &c. "and the slave shall, moreover, receive any number of stripes which the magistrate shall be pleased to order," &c.

See also former notes, p. 300, &c.

Many other acts of the same nature are to be found, like the above, in the P. C. Report.

to which may be added the offences of drumming, or dancing, blowing horns, assembling together for amusement, in certain numbers, or at certain hours, demanding more than certain regulated rates of wages for their labour, as porters, boatmen, &c.; together with many actions, which though of an immoral nature, are but imitations, by such slaves as occasionally practise them, of the manners of the free people around them. Such are cock-fighting, playing at quoits or dice, or any other species of gaming; drinking, dancing, threatening, quarrelling, fighting, using insolent language or gestures to any white or free person, talking obscenely, throwing squibs, or making fireworks. The law of Barbadoes conveniently adds the sweeping description of "*any other misbehaviour whereby the public may be disturbed, or any particular person immediately aggrieved.*" \*

The last Jamaica Meliorating Act has added the "*preaching to, or teaching other slaves, as anabaptists or otherwise, and the attending nightly or other private meetings.*" †

The ordinary punishment annexed to these heinous offences, is a number of lashes, not exceeding thirty-nine, on the bare body, with that dreadful instrument the cart-whip.

Fifthly, Many offences have been made capital by these laws, when perpetrated by a slave, which, when the act of a free man, are but petty larcenies, misdemeanours, or at most felonies within the benefit of clergy; and in some instances, the negro is punished with death, for actions which would subject a free man to no public punishment at all.

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\* Laws of Barbadoes, Act, No. 196. Sect. 1.; ditto, No. 329. Sect. 2.; Laws of Antigua, Act, No. 176. Sect. 31.; Laws of Nevis, Act, No. 111. Sect. 3.; Act of Grenada, 1770, Sect. 5.; ditto, 1786, Sect. 2.; Act of St. Vincent's, 1767, Sect. 20.; id. Sect. 18. and 42.; Act of Virgin Islands, 1783, Sect. 30. For all these laws, and others of a like character, see the P.C. Report, Part III. Appendix.

† Act of 1816, Sect. 50, 51. The meetings intended to be restrained are those held for religious purposes; and the object was to check the missionaries, by subjecting the poor hearers, as well as the preacher, to severe punishments.

We have already seen some cases of these descriptions, to which may be added stealing "any quick or dead thing," of the value of twelve pence current money\*, killing or destroying horses, cattle, sheep, or "other things," of the value of six shillings †; uttering any words tending to mutiny or insurrection ‡; stealing or destroying any goods, chattels, provisions, canes, or *green corn*, (though not previously severed from the freehold,) under the value of twelve pence §, and various other petty misdemeanours.

Sixthly. These humane lawgivers have further enlarged their sanguinary catalogue, by punishing *the bare attempt or design to commit crimes*, as severely as the crimes themselves.

Thus the attempt to steal, to the value of twelve pence currency ||; the attempt to murder, rob, burn, or break open-houses, or to commit any other felony ¶; the attempt to burn or set on fire sugar canes, or cocoa \*\*; the attempt to poison free persons ††; the attempt to take away the life of a white or free person by poison, or any other unlawful or indirect means ‡‡,

\* Punished with death, by the law of Barbadoes, No. 329. Sect. 14.; with "such death as the Governor and Council shall think fit to award," by the Act of Montserrat, No. 56.; and generally made capital in most of the other islands.

† Bahamas Act of 1784, Sect. 1.; Bermuda Act of 1730, Sect. 7.; Barbadoes Act, No. 329. Sect. 14. By this Act, the value was reduced to twelve pence currency, and the words are, "shall destroy horses, &c. or any other, "quick or dead thing." The offence is, in all cases, to be punished with death, and *immediate execution* is to be awarded.

‡ Act of Barbadoes, No. 576.

§ Ditto, No. 329. Sect. 16. The first and second offence, however, are only punished by severe whipping, *slitting the nose, and branding in the forehead with a hot iron.*

|| Id. Sect. 14. Act of Bermuda, 1730, Sect. 7.

¶ Act of Bahamas, 1784, Sect. 1.; but this act, which I have before cited, is, I understand, repealed or suspended.

\*\* Act of St. Vincent's, 1767, Sect. 44.

See all these Acts in the P. C. Report; to which let me always be understood to refer for the colonial Acts, when no other book is quoted. Some more of them, perhaps, may have been repealed since 1788, but if so, I am ignorant of the fact.

†† Act of St. Christopher, 1759, Sect. 1. Act of Jamaica, 1816, Sect. 52. Papers of 10th June, 1818, p. 65.

‡‡ Act of Virgin Islands, 1783, Sect. 27.

have all, in different colonies, been made punishable with death, by laws lately or still in force.

The reader is requested to observe, that none of these severe penal laws affect the *white lawgivers*, or their own *privileged class*; and so carefully is this distinction observed, that in the act of Jamaica last referred to, being its latest meliorating law, in which the mixing, preparing, or intending to give poison, by *any negro or other slave*, is made punishable with death, the same punishment is imposed on all accessories, whether before or after the fact, with the express qualification, "*being slaves*." The effect obviously is, that a slave might be hanged for an act which in the free instigator, though a master, perhaps, whose mandate he dares not disobey, would, if not wholly disipnisherable, amount to a misdemeanour at most.

*Obeah* also is a practice which has, by laws of Jamaica and Dominica, all of a modern date, been constituted a capital offence \*; and many negroes have of late years been executed for it in the former island †, though in many of our other islands it has never been considered as worthy of having a place in the copious and comprehensive catalogues of crimes furnished by their penal slave laws.

*Obeah*, and poison, are deserving of a particular consideration, because they were once seriously alleged by the agent of Jamaica, and other colonists, as *great causes of the dreadful mortality which prevails among the slaves in our islands*. The subjects also are curious in their nature; and I was prepared to offer much authoritative information upon them, tending to prove that they are for the most part the grounds only of fanciful, though fatal imputations on the unfortunate slaves; but being anxious to contract as much as possible the bounds of this work, I will omit the discussion of these subjects here, and print it, if at all, in an appendix.

Among the many cases in which offences below the degree of felony when committed by free persons, may subject the slave to capital punishment, is the crime of perjury.

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\* Meliorating Act of 1792, Sect. 44. Mr. Edwards's Hist. vol. ii. Act of 1809, Sect. 37, 38. Act of 1816, Sect. 49. Dominica Act of 1788, Sect. 11.

† See Papers of July 11th, 1815. p. 125, 127, &c.

It has been thought a defect in modern English law, that this offence is in no case punished with death; but that even when it induces a capital conviction upon a false and malicious charge, and thereby occasions the death of an innocent man, the offender can only be sentenced to imprisonment, pillory, and other pains and penalties allotted to crimes under the degree of felony; or at most, by a modern act, to transportation for seven years. The same, in regard to free persons, are the penalties of perjury in all our colonies; except that in the old islands, the act of parliament which extends the range of discretionary punishment here to transportation, is not in force. Yet in Jamaica it is enacted, that a slave who commits perjury in a criminal cause, *shall suffer the same punishment as the prisoner, if convicted, would have incurred.*

Had this rule been confined to perjurious evidence given *against* a prisoner, and upon which he is *convicted*, it might have been objectionable only, or chiefly, on account of the great inequality of the law, in not treating with the same severity free witnesses, whose religious knowledge and education greatly aggravate in them the moral turpitude of the offence: but it makes no difference under this act, whether the false testimony be given for or against the prisoner; and his acquittal is supposed in the very terms of the penalty. To put a man to death for attempting by the crime of false swearing to save the life of another is the reverse of the *lex talionis*, and reconcileable with no other principle of legislation that was ever admitted, except in the West Indies.

Such, however, is the effect of those boasts of the meliorating code, the consolidating slave acts of Jamaica.\*

“*Compassing or imagining the death of any white person*” is another felony, introduced indeed at an earlier period, but which was expressly recognized as an existing capital offence, in the first and second meliorating acts of the same island, of 1788, and 1792.† I had added to this statement in the first

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\* Act of 1792, Sect. 52. Edwards's West Indies, vol. ii., and the latest authenticated edition of this act, that of December, 1816; Sect. 84. Papers of 10th June, 1818, p. 70.

† See the latter, Sect. 48.

impression of the present work, “as no *overt act* is required “in proof of such treasonable imaginations, in the case of “these white monarchs, the limits of this offence cannot “easily be defined;” but by a course of things with which my readers are now become pretty familiar, the later acts of 1809 and 1816 have obviated this stricture by adding the words, “*and declare the same by some overt act.*”\* Here again I cannot but regret, that “the reproaches of enemies” of the system have not produced a less partial effect. Why the loosest and most questionable definition of high treason should constitute a capital offence against their *white* majesties of the plantations, and against them *alone*, and only when the offender is a *slave*, will not be very obvious perhaps to the English lawyer or moralist.

What will suffice to constitute *overt acts* in the judgment of a colonial slave court, I will not presume to determine; but the distinction between any contumacious behaviour to a master or his delegates, and open *rebellion*, is so very slight in West India notions, that a refractory slave must be very lucky to have it accurately and mercifully defined. In the returns of convictions of slaves in this very island, for instance, I find the following case: “Lewis Chamont, and Henry, “slaves to William Ballon, for *rebellious* behaviour in perem-“torily refusing to obey their master’s *lawful commands*. Tried “and found guilty.” For this domestic offence the sentence, indeed, was not, as it might have been, death; but as to the sufferings of the convicts certainly not short of it. They were not only sent to the workhouse slave-chain, but punished with seven times thirty-nine lashes with the cart whip, to be inflicted by monthly intervals; *i. e.* as soon as the incisions were healed, they were to be renewed.†

There is a still more sweeping modern act of St. Vincent, which punishes with death “any slave or slaves who shall “be guilty of *any enormous crime whereby the life of any white* “*person shall be endangered or attempted.*”‡

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\* Act of 1809, Sect. 34. Act of 1816, Sect. 46.

+ Papers of 12th July, 1815, p. 118.

‡ Act of 1767, Sect. 44.

Seventhly. Slaves are liable still, I believe, by some of these insular laws, as they certainly very recently were, to cruel and shocking punishments, unknown to the law of England, and equally so in respect of free persons, to that of the same colonies. In capital cases, they have, in certain islands, been liable to, and actually put to death by, the most dreadful modes of execution.

I have already incidentally noticed acts of Barbadoes, St. Vincent's, Jamaica, and other islands, by which slitting the nose, cutting off the ears and feet, and other dismemberments, have been expressly directed or authorised, either as fixed or discretionary punishments, for various crimes; and sometimes for petty misdemeanors; nay, even for actions in their nature innocent; and other instances of the same kind might be cited from the printed laws of our colonies\*; though the more ordinary and prudent course has been to cover such barbarous intentions by general words; giving a discretionary power to the justices of the peace before whom the slave is convicted, to sentence him to death, *or such other punishment as they shall think fit.*

As to the mode of death in capital cases, it has also by some acts been expressly referred to the discretion of the court†; but in other colonies, where no such acts existed, a practice prevailed, and has been regarded as legal, of inflicting upon slaves convicted of insurrection or other heinous crimes, under the authority of an order from the Governor and Council, what is there called an "*exemplary death.*"

The most common modes of such executions have been burning some of the unhappy convicts, or rather roasting them alive; and hanging others up alive in irons upon a gibbet, to perish by hunger and thirst, with the additional horrors produced by such a dreadful situation.‡

\* *e.g.* Act of St. Vincent, of 1767, Sect. 31.—Act of Virgin Islands, 1783, Sect. 24.—Act of Montserrat, No. 36. Sect. 1.—And various others in the P.C. Report.

† See Act of Montserrat, No. 36. Sect. 1.—Act of Virgin Islands, 1783. Sect. 1.—Acts of Jamaica, 1696, Sect. 11., and 1744, Sect. 4.

‡ “For capital crimes hanging is the punishment; but in cases of insurrection, the Governor and Council, as I have heard, sometimes inflict

As in several islands, and especially in Barbadoes, no acts appear, from the parliamentary papers, yet to have been passed prohibiting such practices, it would become the

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“ higher punishments; such as exposing negroes in a cage, and starving “ them to death.” (Evidence of the agent for Barbadoes, P. C. Rep. Part III. tit. Barbadoes. — Further queries added under A. No. 3.) Unluckily none of the queries of the Committee of Privy Council were pointed at the modes of punishing slaves by judicial sentences; but only to the manner of trial: nor do I find, except in this instance, special queries proposed to any witness, whereby the use of these cruel executions, much less the then appointed punishments of dismemberment, &c. could have been brought to light. The author, therefore, will venture to supply the defectiveness and generality of the above information, by a fact or two within his memory, which having been of a notorious nature, announced, as he believes, in the Gazettes of the islands, and being capable of proof by public documents if disputed, may be mentioned without any substantial exception to his general rule.

Insurrection is not the only crime for which an exemplary death has been inflicted at Barbadoes; nor is gibbetting alive, or what the agent called starving in a cage, the only mode of it. Forty years ago the author was in that island, and his stay did not exceed three days; yet he was present at a trial for murder, in the event of which, two negroes convicted of the offence were burnt alive. If the murdered party had murdered *them*, his punishment would have been a 15l. penalty.

In Dominica, no act empowering the slave courts, or the Governor and Council, to award these exemplary deaths, appears from the report on its slave laws, to exist; but the same law must have prevailed there as in Barbadoes; for Balla, a leader in an insurrection, which took place there, I think, in 1788, was gibbeted alive; and was, as I afterwards heard from respectable persons on the spot, a week in dying.

By the testimony of some who have witnessed this process of gibbetting, it is, in its last stages at least, very terrible, as well as tedious; and that from circumstances too shocking to relate. But I will give the colonies the benefit of Mr. Edwards’s friendly picture of it; in which he contrives in some degree to take off our horror, by his strange account of the extreme fortitude of the sufferers.

“ Of those who were clearly proved to have been concerned in the murders committed at Ballard’s Valley, one was condemned to be burnt, “ and the other two to be hung up alive in irons, and left to perish in that “ dreadful situation.

“ The wretch that was burnt was made to sit on the ground; and his body being chained to an iron stake, the fire was applied to his feet. “ He uttered not a groan, and saw his legs reduced to ashes, with the “ utmost firmness and composure: after which, one of his arms by some “ means getting loose, he snatched a brand from the fire that was consuming him, and flung it in the face of the executioner.

humanity of his Majesty's ministers to instruct the West India governors, that the royal authorities delegated to them and their councils, do not extend to the ordering or permitting these "*exemplary deaths*;" that the King's prerogative is a fountain of mercy, not of tortures; and that though he has conferred upon them the power of mitigating, they have no right whatever to aggravate, the severity of the law, against any criminal, though a negro slave.

It may be thought by the classical reader, who remembers the cruel executions in use among the Romans, that in this

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" The two that were hung up alive, were indulged, at their own request, " with a hearty meal, immediately before they were suspended on the " gibbet, which was erected *in the parade of the town of Kingston*. From " that time until they expired, they never uttered the least com- " plaint, except only of cold in the night; but diverted themselves all day " long in discourse with their countrymen, who were permitted, very im- " properly, to surround the gibbet. On the seventh day a notion prevailed " among the spectators that one of them wished to communicate an im- " portant secret to his master, my near relation, who being in St. Mary's " parish, the commanding officer sent for me. I endeavoured by means of " an interpreter to let him know that I was present, but I could not under- " stand what he said in return. I remember that both he and his fellow " sufferer laughed immoderately at something that occurred; I know not " what. The next morning one of them silently expired, as did the other " on the morning of the ninth day." (Hist. of West Indies, vol. ii. book 4. chap. 3.)

We find, then, by this extract from Mr. Edwards, that the act of 1744 was by no means a dead letter in Jamaica, but that down to a recent period, barbarous modes of execution were in actual use there.

It is just, however, to remark, that by the later meliorating acts of Jamaica, such cruelties are now prohibited in that island; it being declared that hanging by the neck shall in future be the only mode of execution. The meliorating law of Dominica also condemned the then very recent practice of the courts or government of that island, by prohibiting all punishments unknown to the law of England, except such as are therein prescribed; among which not only these cruel deaths but dismemberments are not to be found.

In the government of the Leeward Islands, there are not, nor I believe ever were, (with the exception that has been noticed at Montserrat,) any laws to authorise cruelties of this species; nor do I believe that any power to order them has been there supposed to belong to the Governor and Council. It is due to those colonies to add, that I never heard of any instance of such cruelties in their public executions.

instance, at least, our colonists may derive some countenance, such as it is, from the practice of pagan antiquity.

It is certain that the Roman modes of capital punishment, at least under the emperors, were often highly barbarous; and among them may be reckoned, burning to death; though I do not find that the other West India practice, gibbeting alive, had any specific precedent at Rome or elsewhere. Malefactors were also often exposed to wild beasts in the amphitheatre; and crucifixion is well known to have been one of their ordinary punishments.

But my object in adverting to the laws and practices of other nations, is not to form a comparison between their jurisprudence or their manners, at large, and those of the British West Indies: but only to compare them so far as specially relates to the institution of slavery. Now such laws or practices, in any country, as affect slaves only in common with free persons, cannot properly be regarded as a part of that institution; and consequently the cruel punishments in use at Rome can no further be considered as affecting the comparative estimate of colonial and Roman slavery, than as they are found to have been peculiar to slaves.—Was this then the case with the modes of execution which have been noticed, or any others ordained by the Roman law?

It has been said, I think, that crucifixion was the punishment of slaves alone: but it certainly was sometimes inflicted also upon soldiers, who were never of servile condition\*: nor is the proposition generally true, unless the term slave be opposed only to that of free Roman citizen. The latter, in respect of his high civil dignity, was certainly exempted from so ignominious a fate: but I apprehend that in regard to such free persons in the provinces, or even in the capital, as were not citizens of Rome, there was no such exemption; and under the emperors, when the proud privileges of the Romans were less respected, crucifixion, till abolished wholly by Constantine, seems sometimes to have been the lot of heinous malefactors, whether Roman or provincial, bond or free.†

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\* Liv. Lib. 30. Sect. 45.

† Proofs of such executions of free persons in the Roman provinces need not be offered to Christians.

\* That free Romans were not wholly exempted from the other cruel modes of execution by which servile malefactors were liable to be put to death, cannot be disputed. Persons of senatorial rank, indeed, including the members of the municipalities, or provincial senates, called *decuriones*, and their children, were expressly exempted from those punishments; but they were in this respect distinguished not only from slaves, but from free persons of inferior degree.\* There were also distinctions, less wide and general, in the modes of capital punishment, between persons of the better sort, *honestiores*, or what we should call "gentlemen;" and "free persons of inferior condition," *humiliores*†; but it appears that both were for certain crimes condemned to be burnt alive ‡; and that the latter, at least, if not all free persons under the rank of decurions, or their children, were also liable to be exposed to wild beasts in the amphitheatre. § The slave was generally placed, as to the punishment of his crimes, on the same footing with free men of the lower classes, or plebeians. ||

\* Cod. Lib. ix. Tit. 47. Sect. 3. and 12. Dig. Lib. xlviii. Tit. 19. Sect. 9. par. 11, 12, 13, &c. They were also not liable to be hanged, nor even condemned to the mines, or other public works, as other free persons were. Ibid. par. 12. Cod. ubi supra, Sect. 11. 9.

† Dig. Lib. xlviii. Tit. 19. Sect. 38. par. 3, 4, 5, 6, 7, &c. Condemnation to the mines, and transportation, "deportatio in insulam," were classed among capital punishments; but when the plebeian was sentenced to the former, the gentleman had his punishment reduced to the latter.

‡ Ibid. par. 1. and Sect. 8. par. 2.

§ Ibid. Sect. 29. and Cod. Lib. ix. Tit. 47. Sect. 12.

|| "In servorum persona ita observatur ut exemplo humiliorum puni-  
"antur," &c. (Dig. Lib. xlviii. Tit. 19. Sect. 10.) There were some differences, nevertheless, in punishments less than death; which seem, however, to have varied in their mode, rather than their degree: for it is added in this law, that when the free person was to be beat with a stick or cudgel, the slave was to be punished with a whip or scourge. (Ibid.) It appears to have been thought less dishonourable to be bastinadoed, than to be whipped.

Another distinction, was evidently founded only on a just regard to the master's property; and seems to have placed the freeman in a worse situation than the slave; for it was directed, that when the bastinado, and condemnation to the mines, was the sentence of the former, the latter, if convicted for the same offence, should be whipped and then delivered to his master, to be kept by him in chains, during the same term for which, if

The infliction of torture, indeed, not as a punishment, but as a mean of discovering truth, has been already mentioned to have been a cruel oppression of the Roman, as it was also of the Grecian slave; and I have given our colonial legislators credit for this case, as one instance of injustice and barbarity in the servile codes of pagan antiquity, which they have not copied; though such treatment was in fact not peculiar to slaves, but was applied also to freemen, when engaged in vile occupations, or of bad fame; and under some of the emperors, was shared even by persons of rank and credit. But with this exception, and that of the substitution of whipping for the bastinado, I can discover no instance of the infliction upon slaves, by judicial sentence, of pains or punishments from which free plebeians were in like cases exempt. \*

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free, he must have been condemned to the mines. If the master refused to receive him on such terms, he was to be sold, subject to the same condition: but if no purchaser could be found, was to be sent to the mines or other public works for life. (*Ibid.*) As convicts in the mines were kept continually in chains, (*Ibid.* Sect. 8. p. 6.) the slave, unless refused on account of that condition both by the master and every other person to whom he might be offered for sale, was evidently less severely punished in this case, than the freeman.

\* There was a law made by Constantine, by which fugitive slaves, if apprehended in deserting to the barbarians, were made liable to amputation of a foot, or condemnation to the mines. (*Cod. Lib. vi. Tit. 1. Sect. 5.*) But though this law could not affect the free plebeian, he might incur the same punishments for other offences; and a crime closely analogous, that of desertion to an enemy, was still more severely punished. “*Transfugæ ad hostes, aut vivi exuruntur, aut furcæ suspenduntur.*” (*Dig. Lib. xlviii. Tit. 19. Sect. 38.*)

This law of Constantine against fugitive slaves may seem another exception to the rule, that the Roman code did not generally punish, as offences against the state, mere violations of private duty to the master. But the barbarians, when not public enemies, were still most dangerous neighbours of the empire; and this law apparently respected the public, not the private inconvenience. Had the master's interest been even a concurrent consideration, condemnation to the mines, which was in effect a confiscation to the use of the public, of his property in the criminal, would in this case, as in others, have been avoided. (See the last note, and *Dig. xlviii. 19. 34.*) Besides, it appears from various places of the Digest and Code, that the magistrate's duty, when fugitive slaves were apprehended and brought before him, was only to restore them to the master; though when they fraudulently laid claim to freedom, they were liable to

The servile laws of Rome, therefore, in this respect, as in most others, were equitable when compared with those of the West Indies; however unjust or rigorous when viewed in the abstract, or when put in comparison with the slavery of modern Europe.

But there is another consideration, which justly exposes this branch of the slave laws of the British colonies to much severer censure than similar cruelties in Rome, or any other nation, could fairly merit. I mean the distinguished lenity of that system of legal government under which free persons in our colonies have the good fortune to live; and the total absence in the laws of this country of every barbarous mode of punishment.

If the laws of the French islands inflict, as in a few instances they do, dismemberments and barbarous deaths, and if the laws of the Dutch are, in this respect, still more inhuman than those of the British colonies, it should be remembered that similar cruelties have for ages formed a part of the criminal codes both of Holland and France. The moral sensibilities of Frenchmen and Dutchmen, therefore, were impaired, in this respect, by education and example, before they became masters of slaves: and their legislators only applied to the government of the latter, maxims which early prejudice, and respect for the institutions of their ancestors, had taught them to regard as just and necessary in the government of free men.

But Englishmen, when invested with legislative power in the colonies, had no such apology to offer in this instance for its cruel abuse. On the contrary, the fault was highly aggra-

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whipping and other ordinary punishments. "Fugitivi simplices dominis  
" reddendi sunt; sed si pro libero se gesserint gravius coerceri solent."  
(Dig. lib. xi. Tit. 4.)

The ordinary punishment inflicted for this offence, or for theft, by the master, even before the reformation of the servile code, and when he possessed the power of putting his slaves to death, was only whipping; as we learn incidently from Horace:—

" Nec furtum feci, nec fugi, si mihi dicat

" Servus: habes pretium, loris non ureris, aio.

" Non hominem occidi; non pasces in cruce corvos."

Epist. xvi. Lib. 1.

vated in them, by the liberal and merciful principles of jurisprudence which had been handed down to them by their ancestors, and by the national spirit of humanity, of which those principles are either the offspring or the parents. They had to vanquish early impressions and habits on the virtuous side, before they could reconcile themselves to such spectacles of horror as these opprobrious laws provided: and they did at the same time a peculiar violence to justice, as well as humanity; for in departing from the merciful system of English punishments in regard to slaves, they were too cautious to deprive themselves of its benefits. In no single instance, I believe, has any law, in any one of our colonies, subjected a white person to penalties more severe than he would be liable to for the same offence in England.

#### SECTION VII.

##### SLAVES ARE PROSECUTED AND TRIED UPON CRIMINAL ACCUSATIONS, IN A MANNER GROSSLY INCONSISTENT WITH THE HUMANITY OF ENGLISH LAWS, AND HIGHLY DANGEROUS TO THE SAFETY OF THE INNOCENT.

IN most of our islands, the jurisdiction to hear and determine all criminal charges against slaves, as well in capital cases as in others, is given to the justices of peace\*, who proceed therein, not at any sessions, or fixed time of meeting, but at times and places appointed *pro re nata* in each particular case; and the trial commonly takes place as soon after the charge is made as their own convenience and that of the witnesses will permit.

In some islands, two or more justices are requisite in order to form a court; and this is generally the case every where in capital cases: but a single justice is, for the most part, competent to inflict whipping, and all other punishments not extending to the privation of life or limb.† There are some

\* Acts of St. Christopher, No. 2. Sect. 1.; of Nevis, No. 81. Sect. 2.; and of various other islands, in the appendix to the third part of the P. C. Rep. See also the Answers to Q. A. No. 3. from all the different islands, in the same Report.

† Idem. See also Grenada Act of 1786, Sect. 1, 2.

diversities upon this point in different colonies, and under different acts; but they are not important enough to require that they should be particularly noticed.

In all our islands, the justices till lately did, and in some of them still do, decide in all cases both on the law and fact. They also, without the intervention of any other authority generally award execution; which is done in obedience to their warrant by the Marshal (Sheriff) or his officers.\* But in some colonies, the justices are now required to associate with themselves, on the trial of capital charges, three or more freeholders or housekeepers, who jointly with them decide questions of law as well as of fact; and have an equal authority with them in adjusting the punishment, when of a discretionary kind; a majority of votes being sufficient for either purpose, provided one justice of peace be concurrent.† In some other colonies, freeholders or white inhabitants, to the number of six, seven, or nine, and in Jamaica twelve, are, in capital cases, summoned and sworn as a jury to try the question of guilty or not guilty, the law being left to the justices alone; but these institutions are to be found chiefly or solely in some of the new meliorating acts ‡, and I confess I am not sorry that they are not more general.

Though these new slave courts have been much boasted of, and represented as assimilating the trial of a slave to that

\* See the same Acts, and other Evidence in the P. C. Rep.

† Act of Bahamas, 1784, Sect. 1.; Act of Barbadoes, No. 329. Sect. 14. same Report.

N. B. The law of Bahamas was altered in this respect by the 55th Section of the Consolidation Slave Act, passed in 1797, which requires the Jury to be unanimous in their verdict on the trial of a felonious offence.

‡ Act of Dominica, 1788, Sect. 13.; ditto of Bahamas, 1797, Sect. 55. (Papers of 1804, Ho. Com. under the proper titles;) also Act of Jamaica, 1792, Sect. 48. (Edwards's W. Indies, Vol. II. Book 4. Appendix.) But see last meliorating act of this island, Sect. 79. Papers of 10th June, 1818, p. 68, 69.—An act of Antigua, which was passed in 1784, prior to the discussions on the slave trade, and which, therefore, does not fall within the description of the meliorating laws, or new ostensible codes, also provided a jury of six white inhabitants, and was, I apprehend, the first institution of this kind in the West Indies (see it in the P. C. Report). Its operation was limited to three years, but perhaps it has been renewed.

of a free person, there is obviously no such similitude. The sworn judges of the fact resemble a jury in nothing but the oath they take; since all those sympathies which arise from equality of civil condition, and liability to the same laws and mode of trial which they administer, are wanting; as is also the prisoner's right of challenge or exception. Neither is there any preliminary examination of the charge by a grand jury, or by the judges of a superior court, as upon an indictment or information against free persons. The mere substitution of a petty jury, composed as colonial juries are, for the justices of peace, as to the question of law or fact, certainly does not in my opinion improve the slave's chance of a merciful or impartial trial.

The proceedings against slaves in all cases, capital as well as others, are wholly by parol; except that the warrant or mandate for execution is, I think, generally put in writing; and, except that when the slave is not in custody, and the master does not send him to be tried, an arrest warrant is granted. The convicting and hanging a negro in the West Indies is, in general, a matter of as little solemnity, and circumspection, as the recovering a debt under forty shillings at a Court of Requests in this country.\*

In this point, indeed, Dominica, the Bahamas, and Jamaica are, in respect of their late meliorating laws, in some degree distinguishable from the other colonies. It is now directed by a law of the first of those islands, that the proceedings at the trial shall be recorded by the Clerk of the Crown, who is required to attend the court for that purpose †, to which the late acts of the Bahamas and Jamaica have added, that the charge shall, previous to or at the trial, be reduced into writing, and read; but it is provided that the same shall not be questioned for any defect of form; and there, as in the other colonies, no indictment, presentment, or information is,

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\* See Act of Grenada of 1786, Sect. 1., and generally the acts before referred to in this section.

† Act of Dominica, 1788, revived in 1799, Sect. 13. Papers of 1804, Ho. Com. 12 E. It is not said, however, when the record shall be made. The Acts of Jamaica and of the Bahamas only require it to be within thirty days *after the trial*. See the last Act of Jamaica, Sect. 83.

in any case, required.\* Nor do these particular improvements, if such they are, extend to any but felonious offences, or rather to any but such felonies as are to be punished with death or transportation. Slaves may still be condemned to severe whipping, and, except in Jamaica, to that merciless treatment called "keeping to hard labour," without a written accusation, and without any record of their trials, as well as without a jury.† On the whole, these distinctions between the meliorating acts of a few of our islands, and the existing laws of the rest, are noticed rather for the sake of accuracy, than on account of any real importance that belongs to them.

Great and obvious are the dangers which may arise to innocent men from precipitate trials on loose verbal accusations, and from sentences which are not even reduced into writing, before they are carried into effect. Yet in this loose and hazardous way is criminal justice administered in the British West Indies, against the unfortunate negroes; and that not only in cases which expose them to the torture of the cart-whip, but also upon capital charges, and even in islands, where the consequence of a conviction may perhaps be one of those dreadful modes of death, which have been noticed in the preceding section.

The last and much boasted meliorating act of Jamaica has, as we have seen, allowed thirty days after the trial for drawing up the record; and yet within that time execution must be done; unless the governor should grant a reprieve.‡ In other

\* Act of Bahamas, 1797, Sect. 55. same Papers; B. 12. Act of Jamaica, last referred to.

† See the Acts, as above, Dominica, Sect. 14.; Bahamas, Sect. 70.; Jamaica, Sect. 59. *I had not stated this exception as to Jamaica in the former impression of this work; but here again amendments have come between my commentary and its publication. In the Act of 1816, the cases subjecting slaves to sentences of "confinement to hard labour," are expressly added to the jurisdiction of the new slave courts, after the cases of death or transportation.* (Papers of June, 1818, p. 68.)

‡ Sect. 49.—*Again I am anticipated by the Jamaica Assembly. There is now a clause that "nothing in the act contained shall hinder or prevent the justices, where any slaves shall be condemned to die, from respiting the ex-*

islands it is expressly directed, that execution shall *immediately* follow the sentence. \*

It cannot reasonably be demanded that I should adduce proofs of iniquitous consequences having actually resulted from these loose and summary proceedings. Where not only the evidence, but the charge, and the conviction itself are unrecorded, and where no reports of trials at law are published, it is obvious that a thousand innocent men might be convicted against law and evidence, and yet no proofs be attainable, by which a single case of that kind could be established on this side of the Atlantic.

But so gross and notorious have been the violations of law in criminal convictions of slaves, that we are accidentally enabled to discover and prove them to have occurred, in some islands, by the provisions of subsequent acts, to which they gave occasion. Thus, in an Act of Barbadoes, already referred to, whereby various actions of slaves, never till then treated by the laws of the island as criminal, were made punishable by a public whipping, it is recited that the magistrates had usually before punished them in the same manner; and that the intent of the act was only to terminate doubts and disputes, to which those illegal sentences had given rise. †

So, also, in the case of a capital offence in Jamaica, that of

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*cution for any term not exceeding 30 days, or until the pleasure of the Governor shall be known.”* (Papers of 10th June, 1818, p. 69.)

\* Act of Bermuda, 1730, Sect. 7.; Act of Barbadoes, No. 329. Sect. 14.; Act of Virgin Islands, 1783, Sect. 1.; Act of Grenada, 1786, Sect. 1, &c.

† “ And whereas, though there is no express law for the punishment of “ the said offences, yet it has been usual from the necessity and SUPPOSED “ REASON OF THE THING, to punish the same by whipping, as directed in “ like cases, which, however, has of late occasioned some doubts and dis- “ putes to arise: to obviate, therefore, all such doubts, and prevent such “ disputes for the future,” &c.

There was no occasion whatever in that country to indemnify the magistrates, but the offences in question were made legal grounds of public cart-whipping in future. They are, *inter alia*, “ using any insolent language or “ gesture to any white or free person, making or selling squire, using “ obscene language, drunkenness, threatening, or quarrelling with any “ fellow-slave, and generally any ‘ other misbehaviour, whereby the public “ may be disturbed, or any particular person immediately aggrieved.’ ” (Act of 1749, No. 196. Sect. 1.)

" compassing or imagining the death of white persons," it appears that the slave courts had been in the practice of putting a plurality of negroes to death for the same offence, though contrary to a direction of one of their own acts, as express and clear as can well be conceived, till a more modern law came, and surpassing, as usual, its predecessors in severity, legalized the proceeding, and that in respect of the past, as well as in future cases. \*

It seems impossible, that if these courts had been obliged to proceed by indictment, as in this country, or even to draw up a regular conviction in writing, previous to issuing their warrants for the punishment or execution of the prisoners, they could ever have proceeded so directly contrary to law. I must admit, however, that there is little moral difference between the conduct of judges, who inflict the punishment of death before the law has authorized it, and that of legislators, who impose capital punishment retrospectively for acts

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\* See and compare Act of 1696, No. 33. Sect. 23, 24, and 26., with Act of 1744, No. 141. Sect. 1, 2, 3. Printed Laws of Jamaica, Appendix to the edition of 1787.

By the first of these Acts, Sect. 23., directions were given for proceeding against slaves upon complaints of "felony, burglary, robbery, burning of houses or canes, rebellious conspiracies, or any other capital offence whatsoever."

By Sect. 24. *compassing or imagining the death of a white person* by any slave or slaves was made punishable with death.

Sect. 26. contained the following proviso: "Provided nevertheless, that "when and as often as *any of the aforementioned crimes* are committed by "more than one slave, that shall deserve death, (*murder only excepted,*) that "then, and in all such cases, only one of the said criminals shall suffer "death, as exemplary to the rest," &c.

Yet in the Act of 1744, made "to explain and amend the former," is the following section: "And whereas slaves have been tried before the "making of this Act for compassing and imagining the death of white persons, pursuant to the said Act, and the justices and freeholders have given "sentence of death against more slaves than one for one and the same offence, "and have ordered others to be transported, and the said slaves have been "executed and transported accordingly; it is hereby enacted and declared, "that the said trials, sentences, executions, and proceedings, were and are "just and legal." (Sect. 5.)

These Acts are repealed; but are obviously not less illustrative of the above observations, than if they were still in force, as they were in 1787.

already committed, which has been the conduct of the legislature of Jamaica, in more than a single instance.\*

Of the injustice and cruelty which often result from precipitate executions at least, if not from summary trials, an act of Barbadoes has furnished express evidence. "Whereas " the sentence of death, passed by the justices and freeholders, in pursuance of an act of this island bearing date the " 8th day of August, 1688, against any negro or other " slave tried before them, is immediately put in execution, " without any stay or respite, whereby the owner or possessor " of such negro or other slave is prevented from bringing a " writ of error to reverse the judgment or sentence, which, " in some instances, hath been thought erroneous; and, " many times, by the malice or ill will of the prosecutor, " as well as by the obstinacy of the owner or possessor of " the slave complained against, the pains of death have, in " pursuance of the letter or construction of the said act, " been inflicted on such slave, when more proper and ef- " fectual methods might have been used, if the justices and " freeholders had been empowered so to do, and thereby the " large sums of money that have been paid out of the trea- " sury for such executed slave might and ought to have been " saved, as well as the life of such slave preserved." †

The European reader may wonder how the "obstinacy " of the owner or possessor" of the accused slave, as well as the malice of the prosecutor, could produce these un-

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\* The act last cited punished with death "every negro or other slave or slaves who have, before the making of this act, been engaged in any rebellious conspiracy, or have compassed and imagined the death of any white person or persons in this island." Sect. 2. And the 32d Section of the Act of 1696 enacted, that "if any negro, or any slave or slaves, before the making of this act, have maliciously given or attempted to give, or shall hereafter maliciously give or attempt to give, to any person whatsoever, whether free or slave, any manner of poison, although the same was never taken, or if taken death did not ensue upon the taking thereof, the said slave or slaves, together with their accessories, as well before as after the facts, (being slaves,) shall be guilty of murder, and shall be condemned to suffer death by hanging, burning, or such other ways or means as to the justices and freeholders shall seem convenient."

† Act of 1759, No. 180. Sect. 1.

due executions ; but the provisions of the act furnish a very clear commentary on its preamble, as well as a curious illustration of West Indian feelings on such subjects. The loose and precipitate mode of trial was not altered, nor the barbarous act of 1688 repealed or softened, either in respect of the numerous petty misdemeanors for which it inflicted the penalty of death, or the immediate execution which it prescribed ; except that the latter, in case of an appeal by the master, might be respited for ten days : but the singular remedy provided was, that the judges of the Slave Court, when the matters charged are "not of a heinous nature," nor the slave an old offender, but "an object deserving less severity than death," might "use their best endeavours to compromise the offence " between the prosecutor and owner or possessor of such " negro slave or slaves." In case they could not agree, the evidence was to be certified to the governor as an umpire ; who seems to have had a power given of compelling submission to his award. But the matter is treated as a question of private controversy between the free parties ; and it is supposed, as the natural consequence of their not agreeing as to the terms of compromise, that one or both will "insist to " have the said slave or slaves condemned and executed, acc- " cording to the strict words and appointment of the said " act."

Here a further peculiarity of West India legislation, to be found in every one, I believe, of the codes which I have undertaken to delineate, demands our notice, and is necessary to the full explanation of this haggling between the prosecutor and master about the commutation for human blood ; but it deserves a separate section.

#### SECTION VIII.

**THE SLAVE, WHEN PROSECUTED AS A CRIMINAL, IS DEPRIVED OF THAT PROTECTION WHICH HE MIGHT NATURALLY DERIVE FROM HIS MASTER'S REGARD TO SELF-INTEREST, AND IS SOMETIMES EVEN PUNISHED FOR THE MASTER'S CRIMES.**

WHEN a slave is condemned to death by the civil magistrate, he is, previous to his execution, appraised, and the

value, not exceeding a limited sum, is allowed and paid to his owner, out of the public treasury of the island.\*

The reason commonly given for this regulation, and which, I think, is recited in some of the acts that establish it, is, that masters, if not indemnified for the loss of their property, would not give up their slaves to public justice, but rather assist them in escaping from it, when accused of capital crimes. It may be true that such consequences would probably often be found: but this is a new proof of the shameful laxity of the police, and the impotence of the criminal laws in our colonies, when directed against free persons. If it were not for that opprobrious contrast to the severity of their slave laws, the master's authority might obviously be made to minister to, rather than oppose, that of the civil magistrate.

In this instance, as in many others, the hardships of slavery are greatly enhanced, by the imbecility of the law in relation to the privileged class. We have before seen that the enslaved negroes are laid under most arbitrary restrictions, and are made the objects of penal sanctions which ought in reason and justice to be directed against their master alone; and this, merely because it is found easy to restrain and punish slaves, but extremely difficult to restrain or punish white persons. With a like spirit in the present case, the accused slave is deprived of the benefit of that motive which, in his helpless and dependent situation, would best secure to him assistance and protection from his owner, because the latter, being above the reach of the law, might otherwise screen him from prosecution.

Were the master's self-interest engaged on behalf of his slave, when charged with a capital crime, a counsel or solicitor, at least, would be employed to conduct the defence; but this is in general omitted; and it is a neglect the more

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\* Act of Barbadoes, No. 329. Sect. 18, and 556. Sect. 52.; Act of Jamaica, 1792, Sect. 56.; Act of 1816, Sect. 89.; Act of St. Vincent, 1767, Sect. 49.; and see similar laws in the printed acts of all the other islands. But in Barbadoes, and some other colonies, it is provided by law, that the party injured by the crime shall first be indemnified out of the sum so allowed, to the extent of the damage sustained.

inexcusable, because the gentlemen who preside at the Slave Courts are often, as may appear from the instances lately mentioned, very ill informed of the law; while the poor negro is, from his general ignorance and helplessness, not to mention those cruel prejudices under which he labours, unable to do justice to his own case, even in point of fact. Yet on the trial of freemen in the colonies on capital charges, they have a much wider benefit of professional aid than in England; for their counsel, nay, as many counsel as they choose to employ, are heard fully in their defence, on the evidence as well as the law.

To absolve a master from loss in consequence of the public crime of his slave, is besides a most impolitic counteraction of that natural constitution of things, by which men in superior private relations become in some measure pledges to society for the good conduct of their families and dependants.

I can find nothing of a similar kind in the slave law of other countries; and it has been already shown, that by the Roman law a directly opposite principle was adopted, the master being, in many cases, responsible in his purse for the crimes of his slave, at the suit of the party injured. But in the West Indies this regulation will be felt to be peculiarly unwise and unjust, if we consider that not only the moral and religious education of the enslaved negro, but even that degree of knowledge which might teach him to avoid crimes, by showing him their penal consequences, can be derived only from the master.

The case is aggravated by a farther consideration, which even colonial legislators themselves have been obliged to recognize, though an additional reproach to their system. The crime of the slave may often be the inevitable fruit of the master's oppression.

Here I admit they have made one exception to the rule of indemnifying the master; but an exception which shows the iniquity of the rule itself, and which is accompanied with a most gross violation of the plainest principles of justice and mercy.

*“But in regard there are some masters and owners of negroes  
“and other slaves in this island, who do not make sufficient con-*

“ science of providing what is necessary for their negroes or other slaves, or allowing them time to plant or provide for themselves, for which cause such negroes or other slaves are necessitated to commit crimes contrary to the law.” \*

The reader, no doubt, anticipates, as a natural sequel to such a preamble, impunity, or mitigation of punishment, at least, to these involuntary offenders. The stealing food to appease intolerable hunger by a starving man, has been held by civilians, as it was also by some ancient and celebrated writers on our own common law, to be not only a venial, but a justifiable action; and though the rule is now held to be obsolete, if not originally unsound, under the law of this country, the only satisfactory moral reason assigned for its rejection is, that from the effects of our poor-laws no man need be reduced to so dire a necessity in England. It was felt, however, by a learned defender of the humanity of our law in this instance, that the prerogative of pardon vested in the Crown was a necessary additional ground of defence; and he hints, that the royal mercy would certainly, in such a case, soften the rigour of the law. † But in Barbadoes, where the starving slave has no resource in any poor-laws, and where, by this very same act, he might be hanged for stealing provisions of the value of a farthing, or even for snatching a head of green Guinea corn from the stalk, as he passes by the field where it grows ‡, it was thought too much to mitigate, in any degree, the punishment of the involuntary crime, either by judgment or mercy. Looking distinctly at this extreme and pitiable case, as one that might, and often did exist, these colonial lawgivers proceed farther to recite, “ And yet the safety of this island, requiring that such negroes and other slaves shall suffer as the law has appointed, rather than the poor inhabitants of this island be ruined, and driven from hence by their means; that therefore such masters and owners of negroes and other slaves, whose neglect of feeding their negroes and other slaves makes them, in some measure, guilty of their crimes, may” — what? be hanged or muti-

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\* Act of Barbadoes, No. 329. Sect. 19. P. C. Rep. Part 3. Appendix.

† Blackst. Com. Book iv. Chap. 2. Sect. 6.

‡ Same Act last referred to, Sect. 14. and 16.

lated, like the unhappy victims of their oppression ? or be imprisoned or fined ? — by no means — but “ *may not be countenanced therein at the charge of the public.*” And therefore, if the court finds and certifies, that the master had not reasonably provided for the support of the offending slave, “ *and that necessity might have compelled him to commit the offence,*” the unfortunate negro *is nevertheless to die* ; but the treasurer is, out of the sum allowed for his appraised value, only to pay the damage to the party injured, and nothing to the master or owner.

What would Sir William Blackstone, or what would Grotius or Puffendorff, have said to a case like this ? Here we have men starving, without an overseer of the poor, or a workhouse to apply to ; famishing for want, not because they are idle, but because they are too industrious, (if men driven to their labour by a whip at their backs can be called so) destitute of all resources, not from working too little, but too much ; for the act expressly supposes that the master works them too closely to allow them time to plant or provide for themselves ; and yet if they steal a morsel of food, the same law inexorably says they shall die. They shall forfeit life for attempting to preserve it. Their choice is to starve or be hanged !

The legislature, we see, would even exclude the royal clemency ; declaring in this pitiable case of involuntary crime that it was fit that the unfortunate slaves should actually suffer ; and indeed by directing the execution immediately to follow the sentence, the law itself shuts out the possibility of pardon. To be sure, as the prosecutor, under these shameful laws, has a private interest in the actual execution of the criminal, the granting a pardon without his consent might be a matter of some embarrassment ; and therefore it seems pretty plainly to have been the sense of the authors of the act here cited, in the compromising expedients already noticed, that in a case clearly deserving mercy, he had a legal right to insist on the execution of the sentence. He was to receive part of the price of blood, and therefore might demand its effusion.

As this law of Barbadoes was passed in 1688, it may, perhaps, be alleged to be a specimen only of an ancient and obsolete illiberality : but it was recognized and explained, without

any amendment as to the subject of these strictures, in 1789; and is, probably, still unrepealed.

Nor have such opprobrious principles of legislation been peculiar to that island. An act of St. Vincent, substantially to the same effect, was passed at the still more modern period of 1767, and is also, I suppose, a subsisting law.\* An act of the Bahamas of 1784, now, I understand, repealed or suspended, not only adopted the same maxims, but applied them with still more injustice, if possible, to the case of an offence committed against the master himself; that of running away. When this, or any other capital offence, had been the necessary result of inhuman usage from the master, he was not to receive the appraised value; but the slave was nevertheless to be hanged. The legislature, however, in this instance, spared a little the feelings of the judges and freeholders; for it seems to be meant that the slave should be executed first; and the necessity that led to his crime be enquired into afterwards.†

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\* " And whereas some masters and owners of slaves in this island do not provide sufficiently for their slaves, or allow them time to plant and provide for themselves, contrary to law, *and yet the safety of this island requires that such slaves should suffer*, or otherwise they would commit the greatest outrages, and their masters and owners be encouraged in their neglect at the public charge: be it therefore enacted, by the authority aforesaid, that the justices, at the time of trying any slave accused of robbery, shall enquire by witnesses, examined on their oaths, how the owner or owners of such slave was provided with provisions, and other necessaries, and what allowance such slave received; and if it shall appear to the said justices, that the master or owner had not provided sufficiently for such slave, *and that necessity might have compelled the slave to the offence committed by him*, the said justices shall certify the same to the treasurer, and direct the treasurer to pay the damages done by such slave to the party injured (so as such damage does not exceed the value of such slave,—as in that case the value only of such slave shall be paid for the damages), but nothing to the owner."

† " And be it also enacted, that when any slave shall suffer death, two justices and three freeholders or housekeepers shall forthwith enquire what treatment such slave had received from his or her owner; and if it shall appear to them, or the major part of them, that the owner of such slave had *inhumanly used him or her, and that necessity or cruel usage might have compelled such slave to run away, or to the commission of the offence for which he or she shall have suffered, the owner shall not be entitled to or receive any allowance for such slave.*"

## SECTION IX.

CONCLUDING REFLECTIONS ON THE SUBJECT OF THIS  
CHAPTER.

THE account which I proposed to state between the enslaved negro and the state to which he belongs, has now been fairly, though compendiously stated. I have concealed no part of his small obligations. I have exaggerated in nothing the cruel regimen to which this wretched and degraded member of society has been subjected in return.

I will not mock the reader by asking him to say on which side the balance stands. A cave in a desert, with all the evils and dangers to which the solitary savage can be exposed, would plainly be far preferable to social life, on such unprecedented terms. I would rather invite the reflecting mind to imagine, if it can, a scheme of civil government more replete with every species of injustice and oppression than the colonial legislatures of the British islands have devised.

It was a new, and perhaps may be regarded as not a necessary view of this painful subject, to consider the law which governs the slave in his relations to the state, as constituting a distinct branch of the oppression under which he groans; for the same law recognizes, and ruthlessly maintains against him, the tremendous power of the master; and, after all, it must be, and has been admitted, that domestic, much more than civil oppression, constitutes the wretchedness of this unprecedented state.

The most wise and merciful laws could certainly do but little to compensate the evils which are imputable to the legislature, while it permits and maintains such an extreme private bondage as that of the colonial negro. But, on the other hand, such is his condition, when regarded as a subject or member of society, that without taking the miseries of domestic slavery into the account, the balance of good and evil would still be found infinitely against the unfortunate bondman, and give him ground to lament that he is an object of civil government at all.

There are some collateral views, at least, in which the sub-

ject of the present chapter will be found of considerable importance.

The great obstacle to the relief which the oppressed Africans might hope to obtain from the humane interposition of parliament, has been the difficulty of bringing the true nature of that dreadful situation in which they are placed in our colonies, to the knowledge of those who have power to alter and improve it.—Never were the arts of misrepresentation more effectually or banefully employed, than they long have been to hide the true merits of this shameful and deplorable case from the eyes of England and Europe.

But though it is easy to deny practical abuses which exist in a distant quarter of the globe, and though the unwritten law of the islands in what relates to the protection of slaves, has, as I have proved, been most grossly misrepresented, the express penal code by which they are restrained and punished, cannot be so easily suppressed or denied. The master, in the exercise of his harsh powers, may safely rely on those maxims to which custom and popular opinion have given the force of law; but the peace-officer and the magistrate could have no authority over other men's slaves, so as to imprison, whip, mutilate, or destroy them in a manner unknown to the law of England, without the aid of acts of assembly; and those are capable of being authenticated, as they have been by the Privy Council Reports and Parliamentary Returns, to which I have so copiously referred.

Here, then, we have one great *desideratum* supplied. We have incontestible premises from which to reason; and they are such as, if fairly reasoned upon, may suffice to remove, in every considerate mind, the great obstacle by which the advocates of the oppressed Africans have been fatally opposed. They show that to the legislators of the islands those favourable presumptions for which the colonists at large so loudly and speciously contend, is not fairly due. The councils and assemblies, it is plain, have not retained those feelings of justice and humanity which we vainly suppose to be inseparable from the character of an Englishman; or if they have, the unfortunate negro at least has not been regarded as a proper object of those virtues; since the authors of the laws made for his government in the British West Indies have

evidently been insensible to his sufferings, regardless of his wrongs, barbarous in punishing his faults, and deaf to the demands of acknowledged justice, as well as to all the pleadings of mercy, in his favour. We have seen that contempt, distrust, aversion, and revenge, are exhibited not only in the practical provisions, but often in the very language of their acts, when slaves are the objects of them; and that the shedding the blood of these unhappy men for trivial, venial, and sometimes involuntary offences, has been, in numerous instances, most coarsely, as well as cruelly ordained.

Instead of finding traces of our native humanity even in servile codes, when the work of British lawgivers, as we might have naturally hoped, we find in the slave acts of the assemblies a directly opposite distinction. In no other country has any legislature disgraced its statute book by such harsh and barbarous laws.\* Though the protection of slaves was a title wholly unknown to most of these codes, till the purpose of averting the interposition of parliament gave birth to it, their smallest trespasses were every where written in blood.

Who can conscientiously say of assemblies by which such opprobrious laws as we have noticed were made, that they were fit to be trusted with the sacred functions of legislation? Parliament, no doubt, might be embarrassed with the details of a slave code; but the delegation of the work to such bodies as the Colonial Assemblies was an expedient in the last degree unjust. The very worst of legislatures for a community of slaves is a popular assembly composed of and elected by their masters; and in abandoning them entirely to such lawgivers, we have stood alone among the colonizing powers.

We may also with certainty infer from such laws what has been the general character of those by whom the system of slavery has been administered in the West Indies.

It cannot be pretended in this case, as it has been in regard to instances of individual cruelty when brought to the know-

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\* I do not except even the foreign West India colonies. In those of Holland there has been much practical cruelty; but no positive institutions, I believe, can be produced that will bear any comparison with some of the opprobrious acts I have cited. Nor were protecting laws wholly wanting in the Dutch or any other foreign colonies, however rarely enforced.

ledge of the English public, that the reproach belongs only to a few, or to the worst of masters; men who are not a fair specimen of the society to which they belong; for the councils and assemblies have been always naturally composed of the most respectable individuals resident in their respective islands; and if the general character of a community may not be fairly inferred from the votes of a representative assembly, annually elected, and which is liable to no influence whatever that can prevent its speaking the true sense of its constituents, in what more faithful mirror can that character possibly be seen?

Can, then, the obvious consequences be avoided by suggesting that the cruel and iniquitous laws which have been noticed are all of ancient date; and that the laws themselves have been repealed? I believe the fact to be, that in many of our colonies the greater part of the acts cited in this chapter still continue in force; and there were many equally bad in Jamaica, which, though now repealed, were in force so recently as 1787; and then reprinted in the island as existing laws, after a temporary suspension.\* Nor is it true that they are all of an early date. On the contrary, we have seen that in St. Vincent's and other colonies, laws which prescribe mutilations of the bodies of slaves, and merciless punishments for their slightest misdemeanors, nay, laws ordaining that they shall be put to death in cases in which their innocence is expressly supposed, are of a very modern origin, and the work of the present generation.

If, however, such acts had only been found among the more ancient of the colonial institutions, they would equally serve to show how liable British character is to degenerate through the exercise of private despotism; unless it be affirmed that the humanity of our national manners is not of so old a date as the settlement of our West India islands.

For my part, I am not prepared to admit that even from the days of the second Charles, since which all these shameful acts of assembly have emanated, Englishmen have had less aversion to cruelty than now; though they certainly have

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\* See the Appendix to the Edition of 1787, before referred to.

advanced in refinement, and in active benevolence. If, however, we are inclined to give up the characters of our ancestors, and even of our grandfathers and fathers, let us at least defend our own generation, and the age of our early manhood, which is the era of many of these laws.

Is it only since the discussions on the slave trade that Englishmen have become humane? Even this date would not suffice to repel the inference I contend for; or to raise any favourable presumption from national character in favour of colonial slave masters. Witness the odious conduct of the assembly of Barbadoes, as officially reported by Lord Seaforth, at a period more recent by sixteen years. In that island, boastful of its superiority to our other colonies in the education and manners of its planters, as well as in the earliness of its settlement, and the extent of its free population, we have seen the most shocking of its slave laws pertinaciously maintained, and further protection for the lives of their unfortunate bondmen than a small pecuniary fine refused to the solicitations of the government, while innocent blood, most barbarously and wantonly shed, was still reeking on their public roads, and the murderers walking abroad unmolested. It has been shown, also, that in other islands, in spite of the thin veil of the meliorating code, the main principles of West Indian legislation are still the same.

In truth, the same spirit which dictated the earlier laws, must ever continue to reign in assemblies constituted like those of our colonies; because it is perpetually generated in the breasts both of the representatives and electors, by the habitual exercise of their own harsh authority as masters, by the contagion of local prejudices, and by that contemptuous antipathy to the servile class which the physical peculiarities of the negro combine with his abject intellectual and civil condition to inspire. It is the peculiar hard fate of the slaves of the New World, that while the sympathies of nature are much diminished in the master's mind by an extreme corporeal difference, the same difference precludes by law another powerful source of sympathy, liability to the same condition. But in the old British islands the case has received its utmost possible aggravation: white slave masters, elected by white slave masters, having been the sole legislators between themselves and

the unfortunate negro, the law itself has confirmed and pandered to those cruel prejudices which it ought to have discouraged and controuled.

Let us not wonder, then, at the spirit which breathes in these laws, or suppose it to be yet extinct. It is a spirit which, however disguised or restrained at present by the policy of the day, is still prevalent among the white inhabitants of our sugar colonies; and will expire only with that baneful interior system by which it has been produced.

## CHAPTER VI.

### OF THIS STATE OF SLAVERY IN RESPECT OF ITS COMMENCEMENT AND DISSOLUTION.

#### SECTION I.

##### REASONS FOR THIS BRANCH OF THE ENQUIRY.

THE hardest champion of the colonies will scarcely refuse to admit, that if there are justifiable causes of slavery, there are also causes of an opposite kind; or that, where such an institution prevails, it is possible for a man to be deprived of his freedom by means manifestly unjust, and quite beyond the reach of any moral defence. Wherever, then, private slavery exists, the law ought carefully to define the legitimate sources of the state, and to guard against its wrongful imposition.

It may also, perhaps, be further conceded, that the favour shown by every servile code, ancient or modern, those of our own islands *in our own times* excepted, to enfranchisement, has not been wholly wrong; and that there are cases in which it may be fit to allow a slave to emerge from his hapless condition into freedom. If so, the law should provide for those cases; and permit, if not encourage, manumissions.

At all events, an account of the law of colonial slavery would be imperfect, if it should leave unnoticed those rules which apply to the origin of the state, and the means by which it may be dissolved.

#### SECTION II.

##### OF THE SOURCES FROM WHICH SLAVERY MAY ORIGINATE.

IT may be convenient here to consider, in the first place, what the servile codes of other ages and countries have declared or enacted on this important head.

The compilers of the Justinian Institute distinguished three general sources of slavery: first, *birth*, which was when the mother was a slave; secondly, *captivity in war*, which they re-

garded as subjecting the captive to slavery by the law of nations; and, thirdly, *the civil law*, when a freeman of above twenty years of age suffered himself to be sold for the sake of participating in the price.\*

The enumeration seems at first sight to be incomplete; because a father had the power of selling his children, without their consent or participation in the price, at any age; and men were also liable to lose their liberty by convictions for various offences; so likewise for refusing to be inrolled as soldiers upon a military census or conscription; perhaps also for ingratitude to a former master, by whom they had been enfranchised.† Slavery by voluntary contract, therefore,

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\* "Servi aut nascuntur, aut fiunt. Nascuntur ex ancillis nostris; fiunt, " aut jure gentium, id est ex captivitate; aut jure civili, cum liber homo, " major viginti annis, ad pretium participandum, sese venundari passus est." (Instit. Justin. Lib. i. Tit. 3. Sect. 4.)

Roman citizens, in the better times of the republic, were not permitted to sell themselves into servitude. It was afterwards permitted on the terms here mentioned; but by a constitution of the Emperor Leo, the power of thus creating slavery by contract was taken away; and both the buyer and seller were punished with whipping, for entering into so shameful an agreement. Novel. Const. Imp. Leo. 59.

The qualified and temporary servitude of insolvent debtors, "in servitu-  
" tutem creditoribus addicti," had been abolished in the times of the re-  
public. It was a state distinguishable from slavery properly so called, and  
was rather a suspension, than privation, of Roman freedom; for the debtor,  
when enfranchised or released, became not *libertinus* but *ingenuus*; not a  
*freedman*, subject to the former master's rights of patronage, but absolutely  
free, like those who were freeborn. Quintilian, Inst. Lib. 7. Cap. 3.

+ This, though asserted by many modern authors, seems very question-  
able; unless the proposition be restricted to those imperfect enfran-  
chisements of which I shall hereafter have to speak. Where the manu-  
mission was regular and perfect, it seems that the former master had not  
the power to reclaim his freedman into bondage on account of ingratitude,  
but only that of banishing him to a short distance from Rome. Such, at  
least, was clearly the rule in the time of Nero; for the senate wished to  
obtain from him a decree altering the law in that respect, on account of  
the alleged ingratitude and insolence of the freedmen in general. They  
wished to obtain the power of revoking in such cases the enfranchisement;  
but this the Emperor refused. It is not suggested in the debates on this  
occasion, as recorded by Tacitus, that the power which the promoters of  
the decree desired had any sanction in ancient law or usage. It may  
therefore, I think, be inferred, that the crime of ingratitude to a patron  
was not punishable by the forfeiture of freedom, except in cases of irregular

must either have been specified in the Institute as an example only of the cases in which freeborn men might become slaves by force of the civil law; or else, which I rather believe, the compilers had accurately in view a distinction between *slavery*, properly so called, and *penal servitude*, which has been generally overlooked by modern writers on this subject. The son, while under the father's power, was not considered in law as a free man; and when sold by order of the *pater familias*, his new state seems to have been of the nature of penal bondage. Had it been ordinary slavery, the master's manumission would have dissolved it, and made him a free person; whereas the father, as a magistrate whose sentence had been eluded, might seize and sell him again a second and a third time.

The law of slavery among the Greeks and other ancient nations, as to the origin of the slave's condition, was, in general, nearly the same with the Roman, with the exception of the father's power to sell; in regard to which, the latter was, I apprehend, without a precedent.\* Captivity in war, birth of a bondwoman, and the contracts of free persons submitting willingly to slavery, were every where the ordinary legitimate sources of the state; and of these, the first was by far the most productive.

The practice of gaming away their freedom is remarked by Tacitus as a peculiarity of the ancient Germans; but this was in effect slavery by voluntary contract.†

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and imperfect manumissions, which the master had power to revoke. See Tacitus's Annals, Book xiii. Cap. 26, 27.

\* By the laws of Solon, a father or brother might sell the daughter or sister, when convicted of unchastity; but in no other case. Plutarch, Life of Solon.

† And it was inforced by the point of honour; the loser willingly suffering himself to be sold by the winner. *Ea est in re prava pericacia, ipsi fidem vocant.* Tacitus de Mor. Germ.

If we had no other proof of the extreme mildness of the ancient German slavery, when compared with that of the West Indies, this fact might alone suffice. If the slave had been an object of such contempt as to make his condition infamous, and if his work had been exacted by the ignominious lash, the point of honour could never have dictated a submission to slavery. In our colonies, no breach of honorary duty, or any other crime, however flagitious, that a free man could possibly commit, would attach to him half the ignominy that belongs to slavery itself. But the German state, as I have shown, was rather vassalage than slavery.

In most countries, ancient and modern, not excepting our own, men have also sometimes forfeited their freedom by judicial sentences, for crimes against the state; but their penal condition, while employed in the service of the public, as galley-slaves, ballast-heavers, and the like, has generally been very distinct from the state of private bondage, and may deserve therefore a separate consideration.

## SECTION III.

## OF PENAL SLAVERY, OR THE STATE OF SERVILE CONVICTS.

SOME eminent champions of the colonial system have, both by their writings, and in parliamentary debate, challenged a comparison between the slavery of the British colonies and that of ancient Rome. The assembly of Jamaica, also, in a Report transmitted to His Majesty's government, and laid on the tables of parliament, has attempted to vindicate its own slave code by the same comparison.\*

If English Christian legislators had really been less unjust and less cruel in their institutions than a Pagan people, whose servile code confessedly had no parallel for its severity in the ancient world, such a superiority would afford but a very disreputable boast: more especially, when the worst period of Roman slavery, prior to its reformation by law, is that from which every instance of cruelty adduced for the purpose of such a comparison has been drawn. It has, however, partly appeared already in this work, and shall be made completely manifest before I conclude, that the Roman slave, even under Tiberius and Nero, was in a state less degraded and less wretched than that of our colonial negroes.

In that Jamaica Report, as in other controversial pieces, the distinction between the ordinary private slavery of Rome, and that which forms the subject of the present section, penal servitude is wholly overlooked, and severities which belonged to the latter are attributed to Roman slavery at large. It is, I admit, an inaccuracy for which great modern authority might be pleaded; and I therefore do not so much blame the

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\* Report of 1815, on the Register Bill before referred to.

Assembly for exaggerating in this instance the cruelty of Roman laws and manners, as for unfairly extenuating and misrepresenting their own.

It is not untrue, though alleged in that most disingenuous and fallacious Report, that the slaves of the *ergastula*, the private prisons or workhouses, were often forced to work in chains; that great numbers of men were so treated; and that the practice was very common all over Italy: but it is equally true, that the subjects of this severity were not slaves, in the ordinary sense of that private relation; but *convicts*, suffering under the sentence of competent courts or judges, which had either reduced them from freedom to servitude, or condemned them, being slaves, to a deteriorated condition, for real or imputed crimes. Their treatment, therefore, cannot be fairly compared with that of our plantation negroes, to the advantage or disadvantage of the laws by which they were respectively governed. They were not even known by the same name with ordinary slaves; except when spoken of in a loose and inaccurate way. They were called, not *servi* or *mancipi*; but *servi pœnae* and *ergastuli*; the former being convicts condemned by the civil magistrate; the latter, criminal or refractory slaves, adjudged to imprisonment or chains by the *pater familias*, or master, in his domestic forum. But it may be proper to speak of each of these a little more fully and distinctly.

#### *Of the Servi Pœnae, and Ergastuli. \**

The Roman magistrate had the power of reducing, by his sentence, a free man to servitude for high crimes against the state; but the condition into which the convict passed was not, strictly speaking, slavery. It was, in fact, so much worse than private bondage, that a slave, when convicted of public crimes, had sometimes no other punishment than the change from the one state to the other. In some respects, however,

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\* By the classical writers, *ergastula* appears to have been often used to denote the criminal slaves confined in private prisons or workhouses, as well as the prisons themselves; but *ergastuli* was afterwards generally substituted for the former.

it strongly resembled slavery, and especially in the total privation or suspension of civil rights. Every free man who, under the Roman law, incurred a capital sentence, *diminutio capitis*, forfeited from that moment his civil character or personality. He ceased to be a citizen or subject; and became, according to the language of English jurists, dead in law. So far his new condition was that of the private slave; who had no civil existence, being regarded not as a *person* but a *thing*. The Roman lawyers naturally enough, therefore, called such a convict, when his life was spared, and penal labours imposed upon him, *servus*, or slave: but some farther designation was necessary to distinguish his peculiar condition; and to have called him a slave of the public, or of the emperor, would have been improper; because men standing in that relation to the state were privileged beyond all others of a servile condition.\* They therefore denominated these convicts *servi poenae*, or slaves of punishment; personifying, as it were, the vengeance of the law, and placing it in the relation of master.

From this metaphor or fiction, several curious, and some humane, practical consequences were deduced. The *servus poenae*, for instance, who had been a private slave at the time of his conviction, was, on any deliverance from his sentence by pardon or otherwise, no longer in a servile condition, but entitled to freedom; for the rights of his former master, having been transferred to punishment, could no longer be asserted by him; and a release from his new metaphorical master was enfranchisement. Thus, if he was sentenced to fight as a gladiator, or with wild beasts at the public shows, and escaped with life, or if, after being sent to the mines or mineral works, he was pardoned by the emperor, he became a free man.†

\* Pliny's Epistles, Book x. Epist. 40, 41.

† *Servos in metallum, vel in opus metalli, item in ludum venatorium dare solere, nulla dubitatio est; et si fuerint dati, servi poenae efficiuntur, nec ad eum pertinebunt cuius fuerint antequam damnarentur. Denique cum quidam servus in metallum damnatus beneficio Principis esset jam poena liberatus, Imperator Antoninus rectissime rescripsit, quia semel domini esse desierat, servus poenae factus, non esse eum in potestatem domini postea reddendum.* (Dig. Lib. 48. Tit. 19. De Poenis. Sect. 8.)

An exception annexed to this rule might alone suffice to show that the working in chains was not the ordinary lot of private slaves, as the Jamaica Assembly supposes, but rather regarded as a severe punishment for their crimes, and which humane masters were very unwilling to inflict; for when the sentence of the magistrate was that the convicted slave should be kept in chains, either perpetually or for a limited period, the master's property in him was not taken away; but in that case he was to be delivered back to the master, to be kept in chains by him.\* It was supposed, however, that the latter might probably refuse to receive his slave under the odious condition of executing such a sentence; and therefore it was provided that in this case the slave should be sold; and if, from the same objection, a purchaser could not be found, he was to be sent for life to the public works.†

Among the consequences of a harsh kind, deduced from the same legal fiction, any gift by will to a man in this state of penal servitude was void, *quasi non Cæsaris seruo datum sed paenæ*‡; and therefore could not avail him, as it might a private slave by favour of the master. But it was a more painful distinction in the lot of the *seruos paenæ*, when condemned to the mines or other public works, that to prevent his escape, he was generally or always kept in chains. He was also, for the same reason, branded with marks or inscriptions; and these were often put on the face, till Constantine humanely prohibited so disfiguring the human countenance, observing that there was room enough for the inscription of the sentence on the hands or thighs of the convict.§

In analogy to these inflictions by the public magistrate, the *pater familias*, or lord of the Roman household, who had judicial authority over his slaves and children, even to the extent of capital punishments, established his *ergastulum*, a domestic prison and workhouse, and condemned his criminal slaves to such periods of confinement and penal labour in it, as their offences seemed to him to deserve: adding, in heinous cases, stripes, or severer corporal punishments, and even death itself. On his domains in the country, the *ergastuli*

\* Dig. Lib. 48. Tit. 19. De Paenis. Sect. 8.

† Ibid. Sect. 10.

Ibid. Sect. 17.

§ Cod. Lib. 9. Tit. 47. Sect. 17.

were brought out in the daytime to their rural labours; but to denote their correctional state, and to prevent their escape, they often, like the *servi pœnae* on the public works, wore chains, or *gyves (compedes)* on their legs. Such treatment, however unjustly and fraudulently it may often have been inflicted, seems clearly to have been of a penal and judicial kind, imposed by order of the domestic forum, and often, no doubt, for offences which the civil magistrate would otherwise have taken notice of, and punished with death or the mines. It was probably inflicted for those heinous crimes alone in the better times of the republic, before the general corruption of manners had produced that gross abuse of these domestic powers, which I shall presently notice.

That the *pater familias* had concurrent jurisdiction with the civil magistrate, in cases of public and capital crimes committed by his slaves, is clear. In a passage in Horace, for instance, which I have already cited, the poet represents himself as the judge who could condemn or absolve his slaves, even in questions of theft and murder.

It is mentioned by Plutarch in his Life of the Elder Cato, that before he condemned his slaves to death for offences that deserved it, he consulted their fellow-slaves, and followed their opinion; thus introducing trial by jury, as it were, into his own domestic forum in cases of a capital kind.\*

I am far from defending the Roman law in its thus entrusting every private master, when the head of a family, with the power of a civil magistrate. The only excuse for it is, that the law was so settled in times of antient simplicity and virtue, when masters, instead of the enormous multitudes of slaves which they afterwards acquired, and regarded with a disdainful eye, possessed but a few of these domestics, and lived among them with a familiarity that naturally inspired

\* There is a curious passage in the Digest (Lib. xi. Tit. 4. Sect. 5.), from which it appears, that slaves who had committed theft or other heinous crimes, sometimes eluded the master's jurisdiction, by surrendering themselves as *servi pœnae* to fight with wild beasts in the amphitheatre; thereby obtaining enfranchisement if they survived the combat. To prevent this practice, a rescript of Antoninus directed them to be delivered up to the master, even after the fight, if the fraud was not sooner discovered.

mutual attachment, confidence, and kindness.\* It might have seemed, therefore, almost as safe to intrust a private master

\* We learn from Plutarch, that Cato the elder, who laboured to restore the simplicity of antient manners, *worked at his country farm in common with his slaves, and sat down with them afterwards to his meals, eating the same bread, and drinking the same wine.* We are also told of his helping the single slave that accompanied him in his campaigns to dress his own dinner.

There is a great blemish in the Censor's character as a master, for which Plutarch gives him a strong and just reprobation. Among his rigid sumptuary maxims, one was to sell his slaves, when, from old age or infirmity, they were no longer so profitable as those young men whom it was his thrifty rule to purchase. This is an anecdote quoted by the Jamaica Assembly, in the report just now referred to, and one on which all the apologists of colonial slavery delight to dwell. They would fain characterize from this single trait the Roman masters in general; forgetting that its singularity is the very cause of its being mentioned by Plutarch, as illustrative of the peculiar character of Cato. How inconsistent is this with their own complaints, when some remarkable instance of West Indian cruelty, remarkable perhaps only through the extreme difficulty of bringing such crimes to light, is adduced by a friend to reformation! They then exclaim loudly against the very notice of such a fact, as unfair towards the colonists in general, even though the criminal was protected by juries, countenanced by legislative bodies, and an object of favour or sympathy with the white community at large.

Some of those gentlemen go much farther, too, in their use of this Roman anecdote, than the history of it warrants. They say, "that Cato 'turned out his aged slaves to starve,'" whereas Plutarch's statement is, that he sold them; which plainly implies, that they were able to earn their own subsistence, and something more; otherwise no purchaser could have been found. The humane and just censure of the Pagan biographer turns on considerations which our planters and assemblies should blush to read. "I would never," says he, "part with an old servant for a little 'money, and expel him, as it were, from his country, by turning him out 'of his house, and forcing him from his usual place of abode and manner of 'living.'" Plutarch therefore would have abhorred those colonial laws as to executions for debt, and those removals by the master's authority, which the assemblies pertinaciously maintain.

After all, the inhumanity of which one Roman is here accused is a common practice of masters in the British Colonies. The planters not only sell and remove their slaves without scruple, old and young together, but sometimes turn them out to starve, when they cannot be sold, because unable, through age or infirmity, to work. This appears from various acts of assembly in different islands which I shall soon have occasion to refer to, as well as from several which I have already noticed. If the assemblies are to be credited in the pretexts they now set up to excuse their recent

with judicial authority over his slaves, as over his own children, to whom the same power extended; and it was the general policy of the Roman law to uphold a kind of patriarchal government in private life; so that every family was said to form within itself a petty state (*pusillam rem publicam*), of which the *pater familias* was the head.

But among the antient people, as among the European colonists of the new world, the slaves in general were far from being benefited by the increase of their master's wealth, and of the luxury or refinement of his manners. On the contrary, his ascent in the social scale was their degradation. As he enlarged his domains, and multiplied his servile dependants, his personal intercourse with them, and knowledge of their individual characters, of course, declined; and in proportion as he advanced in luxury and pride, he became contemptuous or indifferent towards those poor drudges who supported his state and cultivated his lands. He could no

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restraints of enfranchisement, it has been common for planters to add fraud to these cruelties; giving manumissions to their useless and helpless slaves, in order to avoid the charge, such as law might enforce, of their future subsistence.

I cannot help recommending to the Jamaica reporters to contemplate the slaves of the Roman Censor, rigid and penurious though he was, not only *drinking wine at their meals, but dining at the same table with their master*. In his Treatise De Re Rustica, we find that his allowance of wine was not scanty. He thinks it not too much for each slave to have his bottle every day. "*Eos non est nimium in annos singulos vini quadrantalia decem ebtere.*" The quadrantral being nine gallons of our measure, this is 360 quarts per annum for every man.

Amidst all the gross misrepresentations respecting the food of the poor Negroes with which the European ear has been deceived, it has not yet, to my knowledge, been asserted that their ordinary beverage is any thing but water; and well would it be for a large majority of them in some of our islands, if that element in its purity were provided for, or could easily be obtained by them. As to the masters eating of their food, or sitting down at the same table with them, (if tables they had,) I am sure every colonial reader would feel disgust and ridicule ying with each other in his mind at the nauseous and preposterous thought. Even the slightest mixture of their blood, though purified by freedom for generations, is a badge of ineffable contempt; and the meanest of the white Creoles, to quote the words of their countryman and advocate Mr. B. Edwards, *History W. Indies*, Vol. 2. Book 4. Chap. 19. holds it "an abomination to eat bread" not only with those ignominious bondmen, but with any of their descendants.

longer in general distinguish, nor well appreciate their particular merits, their sufferings, or their toils. He shrank also from the arduous labour of exercising personally and indiscriminately the domestic jurisdiction with which he was entrusted over many hundreds or thousands of slaves.\* He therefore delegated his authority in most cases to stewards and other agents: and adopted progressively that indiscriminate severity of punishment, which, in civil or domestic government, is the ordinary substitute for the cultivation of moral character, and for an active and beneficent police.

For these reasons, the power of the master in his family tribunal, which in the best times of the republic was rarely perhaps abused, became, when Roman wealth and luxury had reached their zenith, and especially during that great corruption of manners which reigned during the civil wars, and under the earlier emperors, a source of much oppression. The *ergastuli* were in consequence multiplied, especially in the country; and great numbers of men were seen cultivating the extensive domains of the wealthy nobles in chains.

Another cause powerfully concurred to aggravate this abuse. The Roman empire having, under Augustus, almost made a final end of foreign wars, by reducing a large part of the known world to its yoke, the grand supply of the slave market, captivity in war, was nearly cut off; for citizens made prisoners in civil wars were not liable to be sold as slaves. Mr. Gibbon, like Mr. Hume, justly regards this as the original predisposing cause which first led to the reformation of Roman slavery. But like the abolition of the British slave trade in our colonies, this cause did not immediately operate, with its proper tendency and force, on the minds of Roman land-holders; because, like our planters, they looked to, and they found a resource of an illicit kind. They seized forcibly on free persons, especially strangers, when travelling on the public roads near their estates: carried them to an *ergastulum*; and there, under pretence of their being criminals or fugitive slaves, confined them by night, working them in

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\* Some of the wealthy Romans are said to have possessed 10,000 or more.

chains by day. The fear of their escaping and complaining to the civil magistrate, made it necessary that these victims of lawless violence should be permanently so treated. The free-man, therefore, when kidnapped became wrongfully and fraudulently an *ergastulus*, or convicted criminal slave, for life.

These abuses, becoming at length notorious and intolerable, the emperors appointed magistrates or commissioners to visit the *ergastula*, and deliver all such free persons as were found in them. But the remedy, it would appear, had at best a very partial effect; the inquest no doubt was often carelessly conducted, or might be easily eluded; and a man actually held in slavery might be intimidated from claiming his freedom, or disabled from maintaining the claim. A public register, which alone could have effectually checked the man-stealing practice, was an expedient I presume not suggested. The emperors therefore were not guilty of rejecting it, or leaving the masters themselves to frame and nullify its regulations.

From these causes, and from progressive severity, the natural fruit of such oppression, (the disposition to desert, and the harsh means of prevention, reciprocally inflaming each other,) the great numbers of chained labourers in Italy may easily be accounted for, without supposing that they comprised any other slaves than *servi paenae* and *ergastuli*, the convicts of the public or domestic tribunals.\*

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\* The character was often, as I have admitted, fraudulently imposed upon the *ergastuli*; but still it was as convicted criminals, not as unoffending slaves, that they were branded and chained; and when authors of that age, speaking of private labourers, call them *vincti foessores* and *catenati cultores*, &c. they clearly mean not ordinary slaves, but such as for real or imputed crimes had been condemned to the *ergastulum*.

The elder Pliny, in the passages commonly cited from him to show the great frequency of the practice, plainly confirms these views; for he calls them, at the same time, “*damnata manus, ergastuli, and inscripti.*” “*Vincti pedes damnata manus, inscriptique vultus, arva excresent.*” (Lib. xviii. Cap. 3.) A learned commentator on this passage shows, that such slaves were in general regarded as heinous offenders condemned and sold by public auction, and hence called by Columella “*de lapide noxios*,” which may be translated “*felons sold by the crier*,” “*fures, percussores, qui vir-ginem constuprassent, vitiros, gravis criminis reos, noxae deditos, veni-“ reque ad lapidem ideo jussos.*” He refers also to a term in Plautus, which plainly indicates that wearing chains was peculiar to and character-

Though I have deemed it proper thus to correct a great error of my opponents, and to reduce the discredit of Roman slavery to its true standard, let it not be supposed that there

istic of this class of convicted slaves; for he humorously calls them *genus ferratile*, or the iron race. And Pliny elsewhere uses the term *ergastuli* to designate generally all those his former descriptions of *vinciti*, &c. when he says, "Coli rura ab ergastulis, pessimum est; et quicquid agitur a desperantibus." (Lib. xviii. Cap. 6.) This censure might alone serve to show the distinction between these and the enslaved labourers in general, whose state he does not condemn. The two classes are, I admit, often confounded together by modern writers of eminence, who have treated of the Roman slavery, and they are not always clearly distinguished by the original authorities; yet on a careful attention to the latter it will be found, that the distinction here taken is always understood where not expressed. The chained and branded labourers are not only described by the peculiar appellations which I have noticed; but these descriptions are sometimes put in direct opposition to that of *servi* or slaves; as in this passage of Apuleus; "Quindecim liberi homines populus est, totidem servi familia, totidem vinciti ergastulum." *Vincti*, or chained slaves, and *ergastuli*, here plainly appear to have been synonymous expressions.

Nor is the complaint of the mutinous insolvent debtors in Livy less decisive. These men being dragged into a penal servitude by their creditors, and treated with great severity, one of their ringleaders is introduced as thus describing and probably exaggerating the case, "ductum se ab creditore, non in servitium sed in ergastulum et carnificinam esse." (Livist. Hist. Lib. ii. Cap. 23.

But authority more conclusively in point cannot be desired than one to which the Jamaica Assembly, relying upon Mr. Hume's Essay, and I presume without any examination of the authors cited by him, ventures to refer.

Columella, the reporters tell us, recommends calling over the names of the slaves in the *ergastulum* every day, to discover early if any of them had deserted; from which they infer the severe treatment of the Roman slaves in general. But Columella, on a reference to the passage, will be found clearly and expressly to distinguish as the subjects of this advice *the chained slaves* (*vinciti*), whom he defines by the further description of *ergastuli*, and by the immediate context he shows that these were men condemned for their offences to be put in chains under the authority of the *pater familias*. "Itaque mancipia vincta quae sunt ergastuli, per nomina quotidie citare debet; (vilius), atque explorare ut sint compedibus diligenter innexa; tum etiam custodia sedes an tuta et recte munita sit; nec si quem dominus aut ipse vinxerit sine jussu patris familias, resolvat." (Columella de Re Rustica, Lib. xi. Cap. 1.)

In many other parts of his work this author speaks not less clearly to the same effect; and indeed will be found uniformly to keep in view the

is no other answer to the strange boast, of which that error is the basis.

If to be branded, and to labour in chains or other irons, and to be shut up in prison at night, had been the frequent lot of

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important distinctions between the *ergastuli*, and the ordinary slaves, employed on the Roman farms. In the seventh chapter, for instance, of his first book, (De Officiis Patris Familias,) and the chapter following, in which he strongly inculcates as the first duty of the lord, the care of his rural labourers in general, he distinguishes them into *coloni* or vassals (the same I apprehend in this place as the *adscripti glebae*,) *servi soluti*, or ordinary slaves, and *vinci* or *ergastuli*.

“ *Precipua cura domini requiritur, cum in cæteris rebus, tum maxime in hominibus. Atque hi, vel coloni vel servi sunt soluti, aut vincit.*”

He gives admirable precepts for the humane government of them all; some of which I shall hereafter quote; and I wish that the gentlemen of the Jamaica Assembly would, in this instance, not content themselves with Mr. Hume's brief quotations, but read the original author. They might learn much from him as to the proper treatment of their slaves, and the superintendance of their overseers and managers. As to the point in question, he more particularly and earnestly enjoins a frequent and careful inquest by the *pater familias*, as to the treatment of the *ergastuli*, because, from their situation, they were more likely to be neglected or oppressed by his agents than ordinary slaves. He is accordingly advised to inquire —

“ *Num villicus, aut alligaverit quempiam domino nesciente, aut revinxerit: nam utrumque maxime servare debet, ut et quem pater-familias tali pana multaverit, villicus nisi ejusdem permisso, compedibus non eximat, et quem ipse sua sponte vinxerit, antequam sciat dominus non resolvat; tantoque curiosior inquisitio patris-familias debet esse pro tali genere servorum, ne aut in vestiariis, aut in cæteris præbitis injuriose tractentur, quanto et pluribus subjecti, ut villicis operum magistria, ut ergastulariis (the keepers of the ergastulum) magis obnoxii perpetiendis injuriis, et rursus saevitia atque avaritia læsi magis timendi sunt. Itaque diligens dominus, cum et ab ipsis, tum et ab solutis, quibus major est fides, querat an, ex sua constitutione, justa percipient.*”

Surely my Jamaica censors will regret having referred me to Columella, when I add part of his detail of these duties of the master. He is not only to taste the bread of the *ergastuli*, and other slaves, but their *wine*, “ *atque ipse panis, potionisque bonitatem, gusta suo exploret.*” It appears from this work, as well as from Cato's and Varro's on the same subject, that wine was given to the slaves as their ordinary drink; and we find here that it was not to be of the worst sort. He adds, “ *vestem manicas pedumque tegmina recognoscat*” — What? not only vests and coats with sleeves, but shoes or sandals also for slaves!! or how else are we to translate *tegmina pedum*? If the *ergastulus* sometimes wore gyves, he was not, it seems, also

the Roman slave when unconvicted of any crime by a legitimate tribunal, he would not in this respect have lost that superiority to the unfortunate Negro, which I have shown him to have, in so many other points, possessed.

Respecting the brands, or *stigmata*, of the *ergastuli*, on which, as well as the chains, the writers who condemn their treatment commonly expatiate, the Jamaica reporters are very observably silent, though *inscripti vultus*, as we have seen, is

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barefooted. Our planters, as I shall hereafter show, imitate here by halves. They often give the gyves, but never the shoes; at least to the field negroes, though very many lose their toes from the want of them, by the various injuries to which their naked feet are exposed.

In another place this author is, if possible, still more decisive as to the distinction in question. Having spoken of work for which the *vinci*, or as he there calls them *alligati* were peculiarly fitted, he interposes a caution lest he should be thought in general to prefer these unfortunate labourers to others, contrasting them by the terms *noxii et innocentes*, guilty and innocent, *ne quis existimet in ea me opinione versari qua malim per noxios quam per innocentes, rura colere.* Lib. i. Cap. 9.

While withholding or overlooking these explanations, and thereby falaciously holding out the treatment of the *ergastuli* as a picture of Roman slavery in general, the Assembly, with admirable modesty, strongly censures the author of these sheets for want of candour, in not fully quoting Mr. Hume's Essay on the populousness of ancient nations for the same incorrect views. (See the Report, pp. 21, 22.)

As I cited Mr. Hume's Essay, not for a description of the Roman slavery, but only for his opinion, that the loss of a foreign slave-market led to its reformation, it is not easy to see how candour required of me to insert his account of the treatment of slaves. As Hume, like our Johnsons, our Gibbons, and most other high literary characters among the moderns, was a decided enemy to the odious and pernicious institution of slavery, the Assembly would have gained nothing by my quoting his Essay more fully.

I doubt, for instance, whether they would have liked the publication they refer to better, had I inserted in it, from the same Essay, the following passage: "The remains which are found of domestic slavery in the American colonies, and among some European nations, would never surely create a desire of rendering it more universal. The little humanity commonly observed in persons accustomed from their infancy to exercise so great authority over their fellow-creatures, and to trample upon human nature, were sufficient alone to disgust us with that unbounded dominion. Nor can a more probable reason be assigned for the severe, I might say barbarous, manners of ancient times, than the practice of domestic slavery; by which every man of rank was rendered a petty tyrant, and educated amidst the flattery, submission, and low debasement of his slaves."

added to *vincti pedes*, in the description to which Mr. Hume referred them. Here, however, they may challenge some praise for modesty or prudence. They recollect, no doubt, that a very large proportion of all the field Negroes in their own island are treated in the same way; being branded with the owner's name or marks, that they may be known in the event of their desertion; and this by the master's authority, and for his interest alone, and without the imputation of a fault.\*

I am here anticipating part of the second grand division of my work, as this statement belongs rather to the practice than the law of slavery. But having been led by the comparison with Roman slavery, to which the Assembly has challenged me, to notice these brands, it may be due to our other colonies to state, that Jamaica stands alone in the use of them; I am not informed, at least, of the prevalence of the practice in any other British island; but it must be admitted, that from their smaller extent and population, the temptation to it is not so strong. The reproach of it consists not so much in the pain of the branding, which, though not inconsiderable, may be brief, as in the coarse and contemptuous affront thus offered to the sacred human form, by stamping upon it an unsightly and indelible record of a degraded and ignominious condition. It tends to harden the feelings of those who hourly behold it; speaking to the senses that opprobrious truth, "This man is the absolute property of another, and on a level with the beasts that perish." Nay, it exhibits the poor branded slave as property of a more sordid kind, and

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\* If a fact so notorious is thought to require any evidence, I refer generally to the *Gazettes* of that island, files of which may be found in *Lloyd's* and other coffee-houses in London. In the advertisements with which they abound for the apprehension of fugitive slaves, or for the sale of unknown Negroes detained in the workhouses, the master's marks or brands are very frequently mentioned. See also an Act of 1795, Sect. 2. Printed Papers of April, 1816, Ho. Com. p. 85. "If any one shall mark a slave, the property of another, or deface his or her mark, he shall suffer death as a felon."

Yet be it observed, that when it was proposed by the Register Bill to insert a slave's marks in the registered description, the Assembly of Jamaica, like the rest, was indignant, or affected to be so, and took care to omit in its own ostensible register act all such inconvenient means of identification.

more despised by its owner, than the steed that carries him, or the dog that runs by his side; since he would not disfigure the sleek coat of either of these by a similar badge of the property he holds in them, but reserves it for animals of small account, whom he turns loose on the common or forest.\*

In respect of the chains or irons which the Roman *ergastulus* wore, a comparison was thought more convenient and safe; for Jamaica has, by its last consolidated slave act, as I have before observed, so far redeemed itself from its former reproach, as to prohibit the imposition of chains or irons, "a collar without prongs excepted." How far the prohibition

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\* The author thinks if right, for more reasons than one, to notice in this place, that in a plan of regulations which he submitted to His Majesty's ministers in 1807, for securing the Negroes enfranchised by the Abolition Act from being kidnapped, or fraudulently converted from apprentices into slaves, (a plan which, though partially adopted, was *fataley* departed from, in some of its most essential precautions, by the subsequent order in council,) he proposed that the Africans, on their being delivered over to the protecting officer to be enlisted or otherwise provided for, should be branded in the Jamaica mode, on some convenient part of the body, with the word "free," or some other royal stamp, denoting their judicial enfranchisement; thinking, that though the branding them with the opprobrious badges of slavery is odious, there was no sound objection to giving them a like indelible record of their title to the inestimable blessing of freedom, and to the protection of the crown in its enjoyment. For what reason this part of his plan was omitted, he never learned; but presumed that the proposal was over-ruled at the council-board, from views either of false tenderness to the unfortunate subjects of it, or, which is more probable, from false delicacy towards the gentlemen of the colonies. On the latter principle only, as he has good reason to believe, a still more important part of his plan was rejected; that which prohibited the apprenticing those poor Africans to *the planters for agricultural labour*, unless after their rejection, not only by the commanders in chief as soldiers or sailors, but by tradesmen and artizans of all descriptions, to whom they were previously and publicly to be offered as apprentices.

The just and humane intentions of the legislature have been cruelly reversed in practice; the apprenticed Negroes have been wrongfully enslaved and destroyed, as official information has attested in painful detail; and abolitionists have borne the blame; though the chief cause has been a neglect of those precautions against such abuses which they pointed out from the beginning, as indispensably necessary, and which were probably omitted from a false complaisance to their present accusers alone.

is calculated to be effectual, will be seen from the observations which I have already made on that subject.

But let colonial slavery, in comparison with the worst species of slavery in Rome, have the benefit of this recent prohibition. On the other hand, in this island of Jamaica and others, there are workhouses, (so they tenderly call their houses of correction and penal imprisonment for Negroes,) and also public slave-chains for the prisoners confined in them, and the discipline of these far exceeds in severity that of the Roman *ergastula*, or any other system of penal labour and imprisonment, perhaps, that has ever been used for the punishment of the worst convicts in Europe.\* To these

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\* To justify this statement, it may be sufficient to cite the following description of the punishment, from a work called "*A Short Journey in the West Indies*," by Mr. Dallas, formerly of Jamaica, the ingenious author of another work, "*The History of the Maroons*," in which he zealously defends the slavery of the West Indies against a work of my own, "*The Crisis of the Sugar Colonies*."

" Runaways and Negroes that are found straying, and do not give an account of themselves, or cannot, from not knowing how to speak English, are taken up and put into the workhouse. In this situation their labour is supposed to be so much harder than is their common lot, that Negroes are often sent hither by their masters and mistresses as a punishment for the faults they commit; and according to the supposed heinousness of their guilt, the correction (that is, the torture) of the cattle-whip is superadded. These unhappy wretches (I have reckoned near a hundred linked to the same chain) are employed to dig and carry stones, remove rubbish, and to perform all the most fatiguing offices of the public. The chain, being fixed about the leader, is carried round the bodies of the followers, leaving a sufficient distance to walk, without treading on each other's heels, and to each it is secured by a padlock.

" As soon as they are thus yoked, within the walls of the workhouse, the gate is thrown open, and the poor animals are driven out by a Negro driver, attended by a white driver, both with cattle-whips in their hands. Sometimes the white driver rides on a mule.

" You may imagine that, in the great number of persons thus fastened to each other, without the least attention to the difference of age or of strength, it is not very probable that an equal pace among them can be kept up through the day, as they move about. They are set upon a brisk walk, almost approaching to a trot, and woe be to those whom fatigue first forces to flag:—the never-ceasing sound of the cattle-whip long keeps a regularity in the slight sinking curve of the intervening links of the chain, but, *naturam expellit furca, tamen usque recurret*,

workhouses and slave-chains, masters and mistresses send their Negroes for punishment at their discretion ; and there is no distinction, as I understand, between the treatment of the slaves so sent, and those convicts who are condemned to the slave-chain by the magistrates for public crimes. \*

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“ nature will return ; the feebler will begin to pull upon the stronger, the “ intervening links will lose their regular curve : here they become stretched “ to their utmost, there they sink nearly to the ground ; the weak add the “ weight of their exhausted limbs to the strong, and the strong tread upon “ the heels of the weak. This the drivers remedy, as much as possible, by “ their cattle-whips, till nature, quite worn out, is at last driven back to “ the workhouse.”

It may be proper to notice, that when this passage was cited by the late Sir Samuel Romilly, in the House of Commons, a few years ago, the existence of any such establishment in Jamaica as the workhouse chain was disputed by an honourable member, who, though he had resided in the island, had never happened, like Mr. Dallas, to see it. To obviate some doubts which were naturally excited by this cause, a gentleman was desired to go to a coffee-house in the city where the Jamaica newspapers were taken in, and get any paper he could procure. He did so, and among other advertisements decisive of the fact in question, was the following : “ Absconded from the *workhouse*, Billy, a Negro man, having been *let out* “ of the chain for a cut on his foot : committed for life for stealing.” — *Jamaica Gazette*, Dec. 17. 1814.

\* In Dominica, where there is the same institution, a master lately carried this power of making the police the ministerial instrument of his vengeance to an extreme that furnishes a good commentary on its nature. He first prosecuted his slave capitally, on a charge of mutinous conduct, of which the court found him not guilty. To show his contempt for this decision, the master, though himself a Mulatto, had the poor fellow carried the next day to the public market-place, and there severely cart-whipped, avowedly for the same offence of which he had been acquitted ; and then, as a further vengeance for the same pretended cause, sent him to the gaol-gang, or galley-gang, as it is called in that island, to be worked in chains. He even refused to release the unfortunate slave from this punishment, when requested to do so by the chief justice of the colony ; declaring that the man should continue in the galley-gang as long as a former master, his predilection for whom was his true offence, remained in the island ; which was probably tantamount to a condemnation to the chain for life. After some time the Supreme Court interposed, not on account of the illegality of a master's thus obliging the police to inflict a punishment worse than death, by his own private mandate, but on the ground of a depending suit in Chancery between the present and former master, in which, I presume, the title to the slave was in question ; for the order of court is, “ That the

This institution, among others, might have precluded the boast of superiority to Roman law: for what are the public convicts on the workhouse chain, but *servi poenæ*? and the slaves consigned to it by the master, but *ergastuli*? The chief differences are, that the Jamaica master is not, like the *pater familias*, a lawful Judge, except over his unfortunate slaves; and that there is the fearful addition of drivers and cart-whips, or as they are called in Jamaica cattle-whips, to the West Indian slave-chain.\*

Jamaica, if I mistake not, was the first of the British colonies that adopted these terrible slave prisons, called workhouses, and the public or parochial slave-chains, which thirty years ago were unknown in the Leeward Islands, and, as

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“ provost marshal to release the said Negro man from his custody, to be delivered over to the custody of the Honourable A. C. J., (the former master), until the determination of a suit in Chancery between the said I. B. L. B. (the present master) and the said A. C. J.”

The chief justice, to his honour be it spoken, held the public flogging a contempt, and recommended a prosecution for it; but in vain; and this interposition of the Court produced a great clamour, as a dangerous interference with the lawful authority of masters. I believe that in consequence the case was brought officially to the cognizance of government; and, therefore, that the evidence of it may be found in the proper office. I would not otherwise cite it here, though on the best private authority.

\* Of the driving system in general, I can find no trace in the Roman authors, even in respect of the *ergastuli*; and if these men had been driven to their labours by the whip, those humane writers who have condemned their chains and *stigmata*, would hardly have omitted to notice such an aggravation. It must also incidentally have appeared in *Columella*, and the other *Scriptores de Re Rustica*; whereas among the various details into which they enter, I can discover nothing that indicates any such method of enforcing even the penal labours of the criminal slaves. We read of *monitors* who attended the workmen, to superintend them in their different employments, and also prevent their escape; but there is no hint of any practice like driving, and much advice is given that seems incompatible with its use.

Let me not be understood to mean that stripes were not resorted to by the Roman master or his agents, for the punishment of idleness. It is probably essential, to the exaction of forced labour by prisoners or slaves, that some such means should be employed: but the reader, I trust, will be convinced, if he accompanies me into the second part of this work, that there is an immeasurable difference between the moral discipline of punishment for past indolence, and the brutal impulse of the driving lash.

I believe, in all the Windward Islands, we then possessed; but now the bad example has been followed, at Antigua, St. Christopher, Grenada, Dominica, and Tobago, and perhaps in our other colonies. Their having been so long dispensed with, in most of our islands, is a pretty satisfactory proof that they cannot any where be necessary. Yet, I doubt not, that unless the assemblies are controled, these odious institutions will soon be, if not already, universal: for there is a wonderful propensity in these bodies to follow the lead in every innovation by which the slave is subjected to new legal oppressions, or the powers of the master enlarged. They are prone even to copy from foreigners for the same favourite purposes; though slow enough to adopt their improvements on the liberal and merciful side. In the present instance, Jamaica seems to have been indebted to her French neighbours at St. Domingo, before the avenging scourge fell upon them, both for the pattern of this modern institution, and for the practice of making it subservient to the master's private vengeance. \*

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\* The French being used to see the slave-chain in their gallies, naturally enough resorted to that mode of punishment in their colonies; but with less excuse, permitted private masters to send their slaves to be worked with the public convicts, in the same penal and cruel mode. That this power was often used for oppressive and vindictive purposes, will easily be supposed; but it produced also fraudulent abuses, upon sordid and avaricious principles, which a person unacquainted with the feelings generated by colonial slavery would hardly anticipate, or, without good authority, believe. Planters, whose slaves from sickness or infirmity, had become expensive incumbrances, often sent them to the King's chain to be punished as delinquents, merely to deliver themselves from the charge of their support and of their medical relief.

I quote in proof of it, the following regulation of the intendant, *Monsieur J. B. Guillemin de Vaire*, (dated at Cape François, St. Domingo, May 20. 1780,) " *Etant informé que plusieurs habitans (planters) pour éviter le payement des frais des maladies de leurs Negres, les envoient dans les prisons de cette ville pour y être attachés à la chaîne, sous le faux prétexte de correction, et étant nécessaire de détruire un abus aussi préjudiciable aux intérêts du Roi, nous defendons aux concierges des dites prisons, de recevoir à la chaîne aucun esclave des habitans qu'il ne l'ait préalablement présenté au chirurgien de sa Majesté, &c. &c. (Loix et Constitutions des Colonies François, par M. Moreau de Saint Mery, Tome vi. p. 19.)*

The European reader may, perhaps, be surprised to find that such cruel frauds are here censured only as prejudicial to the interests of the King;

This brief review might suffice to shew how little room the Jamaica legislators had for a boastful comparison with the opprobrious Roman slave-code, even though the state of the *servi paucæ* and *ergastuli* was confounded with that of ordinary slaves. I should not, however, do justice to this part of my subject, if I were not to contrast the mildness of the Roman, with the dreadful severity of English colonial law, in the treatment of this class of men when fugitives from the penal service of the state.

I have already given some account of those many cruel and sanguinary acts of assembly, by which flight from the master has been treated as a public and capital crime. I have shewn that our colonial assemblies were unanimous in adopting that principle, though they varied from each other, and from themselves, at different periods, in its practical strictness or relaxation; and that even the recent meliorating laws have not wholly delivered them from this reproach; whereas at Rome, the civil magistrate was not authorised to punish this offence at all, but was directed merely to send the fugitives home to their masters; except in the case of desertion to a public enemy, where the crime was considered as combined with a species of treason.

But it is proper to notice in this place the striking contrast which will be found in those exactly parallel cases, the flight of the Roman convict from the mines or public works, and that of the colonial Negro from the workhouse or slave-chain, when judicially condemned to them. The former was sent back to his labours, and obliged to work double the time originally prescribed; or, if the original term amounted to ten years, he might be sent back to the same punishment for life, or condemned to severer labours, and a stricter mode of confinement.\*

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and that no punishment is appointed for the inhuman master; but the law was made in the West Indies; and the intendants and other colonial administrators were in general planters. St. Domingo would otherwise in all probability not have been lost to France.

\* Digest, Lib. 48. Tit. 19. Sect. 8. It appears that there were three degrees of penal servitude and labour, very different in their nature and legal consequences from each other. The first and mildest was a condemnation to the public works, "in opus publicum," simply; and upon this the cap-

Some British colonial law-givers have had stronger nerves. After placing the wretched negro in a state which it is impossible for patient human nature to endure, but from unremitting physical necessity, they have actually punished his flight from it with death: and this not by any obsolete or ancient law; for the institution itself is recent. An act which thus inhumanly avenges escapes from the slave-chain in Grenada, was passed so late as the year 1797.\*

I will not detain the reader by extending further here this parallel between Pagan and Christian, Roman and British oppression. The *ordinary* slavery of the latter has been shown in former divisions of this work, and will be more fully

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vict was employed in making roads, repairing or attending the public baths, or other public services of no severe or noxious kind. It seems not to have been a punishment for convicted *slaves*, who, in cases deserving nothing worse, were whipped and sent back to their masters, sometimes under the obligations of labouring for them in chains, as before explained. The next was condemnation to the works of the mines, "*in opus metalli*," by which I understand smelting the ores, or working up the marble or other raw materials raised from them. The third and most severe was "*condemnatio in metallum*," upon which the convict was sent to subterraneous labour in the mine itself. The two last were common to slaves and free persons, and reduced the convict to the state of a *servus paenæ*, though free before: but there was a great distinction between these two modes of punishment, in point of treatment, as well as in the mode and place of labour; the convict in the mines, being among other hardships, more heavily chained, than he who was only condemned to the hours connected with them; "*qui in metallum damnantur gravioribus vinculis premuntur, qui in opus metalli levioribus.*" The fugitive from the ordinary public works, therefore, if sentenced for life, or for ten years, might be sent to the works of the mines; and the fugitive from the latter, in the same cases, might be condemned to labour in the mines themselves; but beyond this there was no higher punishment for escapes, protraction of the term excepted.

\* " Be it enacted, &c. that all and every such slave or slaves who now are or hereafter may be sentenced to be banished from this island, or to be confined to hard labour in chains, for life, or for any shorter period, and who shall escape, break loose, or run away from the place of his, her, or their confinement, or who shall be absent for the space of forty-eight hours from the custody of the person having charge of him, her, or them, shall on conviction thereof be declared guilty of felony, and shall suffer death, or such other punishment as the magistrates present on the trial of such slave or slaves shall direct." —(Act of May 13. 1797; Papers, printed by order of 5th April, 1816. p. 66.)

shewn in the sequel, to be in many points more degrading and severe than that of Rome; though this far surpassed, in its cruelty, every other in the ancient world. We have now contemplated the *penal slavery* of the Romans in the same comparative view; and let us look at the summary result.

The Roman slave was branded. So is the slave of Jamaica.

The former was thus treated when condemned as a criminal by the public or domestic judge. The latter is branded without the imputation of a crime.

The Roman ergastuli, or convicts, were worked in irons. Unconvicted West Indian slaves are often worked in the same way. They are also still, I believe, in many of our colonies, as they very recently were in all, loaded with tormenting instruments, which Roman oppression never devised; such as neck-collars, with their projecting bars and hooks, and iron rings of a cumbrous weight, hammered closely round their ankles.

The *servi paena* were condemned to wear separate chains, the weight of which was proportioned in some measure to their crime. The West India gaol slaves are indiscriminately yoked together in considerable numbers by the neck, each supporting the nearest curves of a heavy chain, by which they are connected and worked together in a long line. No difference is made between the more and less criminal, the convicted and unconvicted, the man suffering under a judicial sentence, and the slave whose master's arbitrary mandate is the only warrant for placing him on the public chain.

But a far greater difference between the convicts in the Roman mines or works, and the negroes on the slave chain, is this: the former *were not*, the latter *are*, followed by drivers, urging them to their labour by the coercive and ever impending lash.

The Roman convict flying from his chain, was liable only to a longer or severer portion of penal servitude. The British fugitive is in the same case, some recent mitigations excepted, liable to be condemned to death.

The former was often delivered from the mines by imperial mercy, and when pardoned became free. The latter may indeed be pardoned, but returns to perpetual bondage.

Though I have been led thus fully to notice the penal slavery of the Romans, it is not my design to examine the state of convicts in other countries; because unless where they have been sold as slaves to individual masters, they belong not to our present subject; and I do not clearly find, that such has been their treatment in any country, Africa excepted. Some particular offenders among the ancient Saxons and other Germans were condemned to slavery; but formed, as I apprehend, no exception to the rule.\*

#### SECTION IV.

##### SOURCES OF PRIVATE SLAVERY, PROPERLY SO CALLED.

AMONG modern and Christian nations, war has universally ceased to be a source of this terrible state of man. Conquerors no longer carry away, and sell the prisoners they make, or the inhabitants of a country they subdue; and it is a great temporal blessing which, as Mr. Gibbon confesses, we owe to the benignant influence of Christianity.† While the same cause has directly or indirectly produced the general enfranchisement, in most countries of Europe of the private slaves or bondmen, in which they all formerly abounded, it has universally, I believe, led to the abolition of every source of slavery, except that which is of the most difficult termination, servitude by birth. I am ignorant at least of any other cause than the hereditary condition, by force of which a man can now be held in slavery by his fellow-subject in any European country. I understand this to be the case even in Russia and Poland. In the latter country, indeed, or at least those portions of it which have devolved to Austria and Russia, it seems doubtful whether slavery now exists at all. “ The “ authority of the seigneur over his vassals (says an English tra-

\* Potgiester shews that incestuous persons, and those who profaned the Sabbath by working on it, were punished by loss of freedom; but in the former case it expressly appears, and I think may be inferred in all others of the same kind, that they were not sold to private masters; but like the *servi panae*, at Rome, and the modern galley-slaves, were employed solely in the service of the state. (Potgies. de Statu Servorum, Lib. 1. cap. 1.)

† Roman History, Vol. I. Chap. 38.

" veller) has been restrained by law. He does not now possess the right of inflicting corporal punishment; nor indeed are slaves now, as was formerly the case, attached to the glebe; so that their condition in some respects assimilates to that of the German peasant."\* The author, I presume, means that the Polish peasant may now leave the estate, though born in servitude upon it; for the master's power of removing him from it would be no melioration of his lot. In this case, being exempted also from corporal punishment, he has apparently ceased to be a slave, in any proper meaning of that term.

As to the slavery which formerly existed in this island, it could legally emanate but from one source, the immemorial servile condition of all the paternal ancestors. So strictly was this rule held, that to prove a man born out of wedlock, was decisively, as I have before observed, to establish his freedom; because though the mother in that case might be ascertained, the father was not recognized as such by law. †

It may seem perhaps an exception to this rule, that if a man confessed himself to be the villein of *A. B.* in a Court of Record, he and his future posterity were from that time bound to serve *A. B.* and his heirs; and not permitted to contest the truth of the confession. But though it is possible that villeinage sometimes began in that manner, it could evidently only do so by collusion; and by an abuse of the spirit and intention of the law. From the solemn regard paid to all judgments of courts of record, for which our juridical system is remarkable, nothing could be averred contrary to a fact once established by such authority: and the strong natural presumption that no man would by falsehood renounce his own freedom and that of his posterity, gave in this case to the maxim a reasonable application in favour of the lord. The recorded confession, however, though conclusive in its effect, was not considered as the origin of a new, but the evidence

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\* *Journal of a Tour in Germany, &c.* by J. T. James, Esq. Murray, 1816, p. 520.

† *Litt. Villeinage, Sect. 188.*

of an existing slavery; and of a title arising not from contract, but from birth and hereditary prescription.\*

The laws of Hindostan are here, as usual, more specific and diffuse, but not less liberal, than those of ancient Europe. They have distinguished no less than fifteen different ways in which the condition of *doss*, the mild species of slavery which prevails in that country, may lawfully arise. They are for the most part, however, only diversities of slavery by voluntary contract; and distinguished from each other chiefly in respect of the different kinds of considerations which a freeman may receive for selling his liberty; distinctions apparently made for the sake of regulating, as I shall shew hereafter that those laws very nicely and equitably do, the important right of redemption. Birth and war are there, as they were in the ancient world, the only involuntary causes of bondage to a private master; if we except the "*being found by chance*," which I presume refers to the case of infant foundlings, brought up by the care, and at the expence, of some private person, who on that account becomes entitled to their service when they are of an age for labour. In the enumeration, one case only of penal loss of freedom is comprised. It is the punishment of a certain species of apostacy; but here, as in Europe, the penal state is not that of private slavery; the convict is not sold to any private master, but belongs to the magistrate; and, contrary to the rules of the Gentoo law in regard to every other source of bondage, he can never redeem himself, or be enfranchised.†

All the slaves in our colonies are supposed to have contracted their servile condition, either originally, or derivatively, through their ancestors, by force of the laws or customs of Africa. May our moral responsibility for titles so acquired be in future matter only of retrospective consideration. No nation was ever stained with such infamy and guilt as England would incur, if, after all she has done, confessed, and proclaimed before the civilized world, she should relapse into the slave

\* See Mr. Hargrave's note on Coke Litt. 117. b. note, 163.

† Code of Gentoo Laws, by Mr. Halhed, Chap. 8. Sect. 1 & 2.

trade; or should, by a fatal complaisance to her colonial assemblies, connive at its clandestine prosecution. But unless parliament shall at length perform its duty to this unfortunate race, by doing, what it is in vain to expect from the assemblies, establishing an effectual registry of slaves, in every colony, and improving their condition by really operative laws, even this foul apostacy, unparalleled though it would be in the records of national crimes, is not, in my sincere opinion, beyond the range of probability. Nor am I singular in this opinion. That supplies from Africa will be always easily obtained, when wanted, is plainly the full expectation of the planters and the assemblies. They have expressly avowed it heretofore, as I have elsewhere fully shewn\*; and that they still cherish this expectation is so manifest from their conduct, that those alone who will not take the trouble of considering the plain import of undisputed facts, can disbelieve it. It may not therefore be useless, and cannot be uninteresting, to advert more particularly than I have already done, to the customary laws of that uncivilized continent, as to the sources of slavery which it supplies.

I have already stated that African slavery, properly so called, and the only slavery which subjects a man to be exiled or sold, arises from four general causes, *insolvency*, *criminal judgments*, *kidnapping*, and *captivity in war*.† But I would here distinguish only such causes of the state as the laws of that country recognize and allow; and *kidnapping*, though one of the most copious sources of the trade, is not regarded in Africa as a legitimate mode of depriving men of their freedom. On the contrary, the captive may be reclaimed if he can be found; and the injury done to him is an ordinary subject of their *palavers* (forensic or diplomatic controversies) and wars.

On the other hand, it may be contended, perhaps, that I ought to add to the legal causes of African slavery here enumerated, *voluntary contract*; for it has been asserted, that free natives of that country, sometimes under the pressure of a general famine, sell themselves to obtain food. The evidence however upon which the late Mr. Park, the most

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\* Letters to Mr. Wilberforce on the Register Bill.

† *Supra*, p. 70, 71., and see App. No. 2.

credible among the assertors of this fact, chiefly relies, namely, the information of a white slave-trader resident in the country \*, is not very satisfactory. The fact will appear liable to much doubt, when it is remarked, that of all the many slave-traders brought forward as witnesses in defence of their own occupation before parliament and the privy council, not one asserted that he himself ever acquired a slave upon such a consideration as this; or that any negro *on the coast* had ever been known to sell himself for any consideration whatever. This is the more observable, because if opportunities are often found by a hungry African to relieve his necessities in a time of famine by the sacrifice of his freedom, it seems probable that such cases must occur upon or near the coast, rather than in the interior; for it is in the maritime border that an importer of provisions, ready to avail himself of the occasion, is most likely to be found; and it is difficult to suppose that a time of famine in any country remote from the coast, is a season in which its inhabitants would choose to increase by purchase the number of their vendible slaves, whom they must long feed in a state of inactive confinement.

It is the easier to fall into mistakes, or be led into them by the misrepresentations of others, as to the origin of slavery in Africa, because the state has been generally confounded, as I have before had occasion to shew, with that of the *grumetta* or vassal†; and by no writer is such inaccuracy more frequently exhibited than by Mr. Park, or his West Indian editor. In the present case it is surely probable that vassalage, rather than slavery, is the state to which free Africans may have sometimes consented to reduce themselves or their children for food. They might, if urged by hunger, naturally enough agree to exchange freedom for a state hardly at all distinguishable from it in point of comfort or security, by becoming grumettas, or life-servants, to some chief, who is able and willing, on that condition, to give them employment and relief. But it is by no means so likely that they should agree to fall at once into the state of slavery properly so called, which always implies in Africa being im-

\* Travels, p. 295.

† Supra, p. 70., and App. No. 2.

mediately put in chains, and kept in them, or shut up in a prison, till the hour of eternal exile arrives.\*

Further reasons might be given for questioning whether vendible slavery ever arises in that country, even in the urgent case of famine, from the voluntary contract of a free person submitting to that condition; but I will not reason more at large against assertions that may, without prejudice to any of the conclusions which I wish to establish, be admitted.

It is further alleged, and is admitted in the enumeration here given, that men sometimes become slaves in Africa through the insolvency of the master to whom they were grumettas or vassals; being seized and sold by his creditors, or given in pawn by him, as securities for a debt, and afterwards forfeited by non-payment. But it seems to be very doubtful whether the law of Africa be not in such cases much misconceived and abused. The seizing the grumetta, or detaining the pledge, are probably, according to the true intent of that law, and according also to its practice in the interior country, only coercive remedies to compel the payment of the debt, and such as give no right to alter by sale the condition of a free man or grumetta when so seized or detained; much less to convey him immediately to a distant and foreign land out of the reach of redemption.

That such practices are a disputable part of the law of the coast, or at least a very harsh application of it, seems to have been felt by such masters of slave-ships as spoke of the pawns or slaves seized for debt in their evidence before the Privy Council and Parliament; for those witnesses never chose to admit, but anxiously denied, that they themselves had obtained slaves by such means, though they scrupled not to avow their having filled their ships by purchases under the other, and no less objectional titles, which the laws of the country really support.†

On the whole, then, though I have distinguished four sources of vendible slavery in Africa, I conceive it to be pro-

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\* Id.

† See especially the evidence of Captain Hume at the bar of the House of Lords on Mr. Henry Thornton's Abolition Bill of 1799.

bable that two of them only, viz. captivity in war, and convictions for imputed crimes, are such as can be strictly said to be legal, according to the customary law of that unfortunate country, when unmixed with the abuses introduced by European traders; and that the other modes of slave-making for exportation, actually in use, would be held tortious and void even by African Judges, if the merits could be fairly examined before their barbarous tribunals.

#### SECTION V.

##### OF THE SOURCES OF SLAVERY IN THE BRITISH COLONIES.

LET us now place in comparison with these principles of the slave laws of other countries, ancient and modern, barbarous and civilized, as to the origin of the state, those maxims which are universally received and acted upon as legitimate in the British West Indies.

This very important branch of our colonial slave law, stands as we have seen wholly on the authority of custom. In no island has any Act of Assembly expressly declared in what manner slavery shall originate; or what title of the master shall, or shall not be valid, as between him and the party whom he holds and treats as his bondman. But usage, and popular opinion received in the colonial courts as law, have established these comprehensive maxims, “that no white person can by “any means whatever be reduced to slavery; and that every “man, woman, and child, whose skin is black, or whose mother, “grandmother, or great-grandmother, was of that complexion, “shall be presumed to be a slave, unless the contrary can be “proved.”\*

If the colonial legislatures had expressly adopted all the barbarous usages or laws of every nation in Africa, by force of which men may there be reduced to slavery, such an act would no doubt have called forth the royal negative. Even the presumption of law here mentioned, might have startled the

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\* For proofs that the presumption of law in all our colonies is as here stated, notwithstanding some bold but inconsistent recent pretences to the contrary, see my second letter to Mr. Wilberforce in Defence of the Register Bill, p. 35 to 73, and the authorities there cited, especially Mr. Stoke's *Constitution of the American Colonies*, p. 442.

advisers of the crown, had it been made a subject of express enactment. But tacitly received as it has been by them all, and implicitly allowed by their courts, it has practically amounted not only to an adoption of all the legal modes of African slave-making, but much more: it has legalized in the West Indies titles brought from the slave coast, which in Africa itself would have been considered as illegal and void. Such at least was clearly the effect of this general presumption of law, when operating in connection with that rule of evidence, which excludes the testimony of slaves; for it was by the evidence of African negroes alone that such titles could be impeached.

The consequence of these rules, taken together, was a total indifference in colonial purchasers to the means by which the poor Africans were acquired on the coast. Neither by the masters of slave-ships, nor by the purchasers of newly imported negroes, was the maxim *caveat emptor* supposed either in law or conscience to apply. The former freely admitted that they asked no questions of the sellers; though many of them at the same time confessed that slaves are often made in Africa by means which they themselves considered illegal and unjust.\*

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\* Q. Whether you know how the slaves are procured that you send, particularly from that district?—A. They are bought from the natives.

Q. Do you know how they are in fact made slaves; or are they taken without asking any questions?—A. They are property in that neighbourhood, as they are in the West Indies.

Q. Are any directions given to your captains to make any particular inquiry upon that subject?—A. None.

Q. In point of fact, are any questions asked by your captains, or by your factors, to your knowledge?—A. I do not know.

Q. Are all taken that are offered, provided they are thought worth purchasing?—A. I believe so.

(Evidence of *John Anderson, Esq.* in the printed evidence taken at the bar of the House of Lords in 1799, p. 14, 15.)

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Q. You spoke of having purchased in the course of these four voyages, many hundred slaves at Angola; about three hundred. State, if you can, by what means any one of those hundreds of people became a slave?—A. I cannot say what makes them slaves.

Q. Are you to be understood, that of all the slaves whom you carried

If the feelings or opinions of West India planters on the point should be imagined to have been different, I need only refer to the authority and the practice of the late Mr. Bryan Edwards. That gentleman, without any intention to display, though certainly with no disposition to conceal, a way of thinking on this subject which is quite universal in the colonies, informs us, that he took occasion to satisfy his curiosity as to the ordinary sources of slavery in Africa, by enquiring individually of many negroes who had been formerly purchased by himself in the Guinea yards of Jamaica, how they respectively became slaves. It is evident therefore that he had not thought it necessary to satisfy his conscience on that head before he became the purchaser: and though in the course of his inquiries he found that some of them had been *kidnapped*, he does not at all insinuate that he felt any scruple on that account in retaining them and their offspring in a state of slavery. Mr. Edwards' sentiments on these subjects will not be thought an unfavourable specimen of those which generally prevail in the colonies; and yet his readers will clearly perceive that he had no consciousness of any thing in the case that required an apology. It plainly did not occur to him that any man could possibly entertain a doubt as to the moral validity of his title.\*

It follows from these remarks, that the law of the West Indies may fairly be said to recognise as valid every mode of slave-making practised in Africa, whether legal or not in that country. Or I am willing, if desired for the credit of our colonies, to put this part of their law in another view; and to say that it regards a sale in Africa as a lawful conversion of a free man into a slave. The coast of that country is a mar-

on your different *voyages*, you never had an opportunity to know how any one came into a state of slavery?—A. I never knew.

Q. Did you consider it as any part of your duty to enquire?—A. I did not.

Q. Had you any instructions to that effect?—A. None.

Q. Do you consider it to be your duty to take all slaves offered for sale indiscriminately, provided you think them worth the money?—A. Yes.

(Evidence of *Mr. Richard Pearson*, *ibid. p. 39, 40. and 46.*)

\* *History of the West Indies*, Vol. ii. Book 4. Cap. 5.

*ket overt* for human liberty; and the title of the true owner may be barred in it, though he is present and dissenting from the bargain, by the evidence of his chain and his despair.

It is true that the abolition acts, as far as they are effectual, have now rendered this conversion of African wrong into British colonial right, of much less moment to the future subjects of it than before; because the purchase of a slave in Africa, or his expatriation by a British subject, however good the title of the seller in that country may be, now works a forfeiture of the property, and entitles the African to freedom. It is nevertheless an evil of no small importance, that this peculiar reproach of our colonial law the *presumptio contra libertatem* remains unaltered. It is a presumption that not only sanctions all the wrongful slavery imposed in Africa in respect of negroes, or the descendants of negroes, who were imported before the abolition (which convenience may perhaps be thought to require), but secures to the contraband trader in human flesh, and to those who buy from him, the profitable fruits of their crimes. As soon as the easy work of clandestine importation into the British islands has been accomplished, the property is safe.\* The rule, therefore, if defensible formerly, clearly should not have been permitted to survive the African slave trade; or should at most have been

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\* See a Report of the African Institution on the reasons for establishing a Registry of Slaves in the British Colonies; Butterworth and Hatchard, 1815. The author ought not to refer to that Report without acknowledging that he is responsible for any errors in fact or opinion that may be contained in it; having drawn it up as Chairman of a Committee of the Institution appointed for that purpose.—See also the author's second letter to Mr. Wilberforce, in defence of the Register Bill, printed for the same booksellers in 1816; and a Report of the Jamaica Assembly, referred to and discussed in the latter.

Of course the two former publications are not cited as authorities: but as much controversy has arisen relative to the extent of the rule here mentioned, and its practical consequences, it may be right to refer such readers as may wish for further information on the subject to those arguments in which it is fully discussed. The letter also contains much evidence in support of the facts here alleged; but being deduced for the most part from the Jamaica Report, by a close examination and comparison of its adverse and artful statements, it is not capable of being inserted here in a form at once intelligible and compendious.

retained in respect only of such negroes as were actually within the British colonies at the time of the cessation of the trade.

The continuance of this odious and dangerous presumption now, cannot in any case be necessary for the protection of a lawful title; because slavery can never hereafter legally and rightfully originate in our colonies, except by the being born of a female slave; a fact which easily may, and ought to be, ascertained by means of a public registry. I say legally and *rightfully*; because there remains another source of slavery there created by positive law; but indirectly, and through which the state can never originate, but at the expence of justice and truth.

By various acts of Assembly in different islands, unknown negroes and mulattoes, and persons of that unfortunate race who have committed or are suspected of any offence against the police, are liable to be apprehended and kept in gaol, without even the warrant of a magistrate; and unless they are claimed within a limited time by some owner, who can prove them to be his property, or they themselves can produce legal evidence of their freedom, they are publicly sold by the Provost Marshal; whose bill of sale is a valid and unimpeachable title.

It is plain that by such proceedings free men may easily be converted into slaves.\*

Let it be supposed, for instance, that a free-born creole negro is taken up as a supposed fugitive slave; and that though he publicly asserts his freedom, he is not able to prove it on the spot, and within the limited time; a predicament, in which, if a stranger and at a great distance from the island where he was born, he is very likely to be found; in this case, he must necessarily be sold as a slave; and the purchaser will, under the law of the island, have a good title to hold him as such for life.

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\* The Acts in general do not notice the case of a claim of freedom; but in all of them it is virtually, and in some of them expressly included. Some of the Acts noticing that case, enact, in express terms, that if the prisoner cannot produce satisfactory proof of his freedom, he shall be sold.

Still more likely is such cruel oppression to be the lot of poor ignorant Africans, when imported contrary to the abolition laws, or by any other means entitled to their freedom.

That free negroes are in fact often deprived of their liberty by proceedings under these unjust and tyrannical laws, there is abundant reason to believe.\*

It may be supposed, perhaps, that as the colonies have borrowed copiously from the Roman law in its worst era, voluntary contract may be another of their legitimate sources of slavery; but the insular legislatures having prudently abstained from defining the means by which the state may originate, custom only can be resorted to for the rules of their law on this subject. That the custom would have embraced this cause of slavery, if cases of such contract had occurred, no man can doubt; but it has not to my knowledge been alleged that a contract to become a slave, has ever been made in any part of the new world, where this modern bondage exists. Some apologists of the colonial system have alleged that negroes have been known to remain in slavery by choice; and such assertions are safely made; for what slave would venture to contradict them; but that among the multitudes of free negroes and mulattoes in our colonies, a single individual was ever bribed by avarice, or tempted by want, to contract for submission to that dreadful state there called slavery, has not, I believe, ever been pretended. In Rome, such contracts were common, while allowed by law; and not less so among most nations of Europe during

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\* See the Jamaica and other West India Gazettes. It is rare to find one of the former in which there is not advertisements of the names and descriptions of negroes detained in different prisons of the island, and to be sold under these laws, upon suspicion of being run-away slaves. A considerable proportion of them will also be found to have no known masters, and to allege that they are free persons; and I have seen such advertisements in which it has been added, that the man alleged himself to have served in a specified black regiment, disbanded in the West Indies. Of course such a fact could have been easily investigated by the police, though not by the unfortunate prisoner himself; and if true, it was decisive of his freedom; and yet in this, as in all other cases, the advertisement stated that he was to be sold at an early period, unless claimed by an owner, or proved by sufficient evidence to be free.

the middle ages \*; but the cruel and brutal bondage of our plantations is of a very different nature from any state which the most wretched and sordid of mankind ever willingly consented to assume.

It is correctly true then, that the only now legitimate source of slavery in the British West Indies, is the being born of a female slave, in the same or some other colony under His Majesty's dominion. But it is equally true that men born free, or enfranchised, may be still easily reduced to slavery there, by fraud or violence, without the possibility of obtaining legal relief; and that the law itself may be made an instrument of the wrong. The case cannot be otherwise while black men are presumed in law to be slaves, while the same presumption precludes their testimony, and while they are liable to be dealt with and sold as slaves, though no man asserts against them the rights of a master.

In all these points, West Indian oppression stands alone, with a cruel and opprobrious singularity. No where else has the presumption of law been opposed to freedom; but everywhere the direct reverse. No where else has slavery been adjudged against any man, without the establishment of a master's title.

Under our own law of villeinage, for instance, it could not be alleged against a man that he was a villein bondman, without also stating to whom in particular he belonged; and unless the title of the asserted master could be proved, the claim of liberty was established. So under the Roman and German law, the want of a known master, was one among the various causes by which a man might lawfully emerge from slavery into freedom. This virtual enfranchisement had place, even when uncertainty as to the person of the master raised no presumption whatever against the servile condition, as when the successor or representative of a deceased master was unknown.†

I have said that the assemblies, while leaving the sources of

\* See Gibbon's *Roman Empire*, Vol. vi. Cap. 38.

† Ignoratione successoris, ut si dominus moriatur, nec in alium jus suum transtulerit. (Potges. Lib. 1. Cap. 1. Sect. 15.)

the condition undefined, have, by the presumption against freedom, and by the police acts together, virtually sanctioned every source of slavery to which private fraud or violence may resort. But this is an inadequate view of the case. They have invented a cause of slavery, additional to all those which lawgivers, civil or barbarous, have elsewhere recognized, or rapacious avarice explored; namely, the having a black skin without a deed of manumission. They have thus contrived to effect, what human despotism never attempted or imagined before. They have attached slavery in the abstract to a large portion of the human species; so that it is no longer a particular private relation, requiring the correlative of master, but a quality inherent to the blood of that unfortunate race, and redounding to the benefit of the first man-stealer who reduces it into possession. The negro himself can gain no title, by occupancy or prescription, to the dominion of his own muscles and sinews; but when no other occupant or claimant appears, his inherent slavery devolves to the state, and is consigned to the fiscal hammer.

It is fair, however, to admit that legislators and judges could no where else have adopted, with safety to themselves, those harsh maxims of West Indian law.

I have before observed, that the slavery of negroes in the new world has been rendered severe beyond example, by the effects of those corporeal peculiarities which so broadly distinguish them from their masters; and we have here a new mischief, flowing from the same fatal source. Not only are the miseries of slavery aggravated by this distinction; but it has enabled legislative oppression to facilitate, without danger to the privileged class, the wrongful imposition of that state. If the lawgivers or courts of other countries, had wished to extend servitude, rather than to favour freedom, and, for that end, to place the presumption of law, and the *onus probandi* on the illiberal side, the cruel innovation could not have been made without danger to themselves and their posterity, and to every free man in the state.

The colonial assemblies and courts, on the contrary, when they made a black or tawny skin a presumption of bondage, threw a convenient veil over the enormities of the slave trade,

and indulged their proud contempt of the African race, without danger to any one whose censure they feared, or whose rights they deemed worth protecting. Free negroes and mulattoes might probably suffer from it; but these have no share in the work of legislation, or in electing the assemblies; and form an odious middle class, which it has been the uniform, though preposterous policy of the British colonies, to discourage and reduce.

While that presumption of law, and the rule of evidence which excludes servile evidence, remain, slavery *in fact*, within the colonies, from whatever source it may originate, must, for the most part, be slavery *in law*. The cases must be extremely rare in which men labouring under all the civil disabilities we have seen, can find means, not only to implead the master within whose grasp they lie, but to establish against him, by legal evidence, the facts which give them a title to freedom; for the same presumption, it should be remembered, encounters the unfortunate negro at the threshold of every jurisdiction to which he can apply: till his freedom is proved, he has no legal personality; and consequently no right to be heard as a complainant or a witness; and must remain under personal duress, either by the act of the alleged master, or that of the police.

I shall perhaps hereafter have to consider more fully the effects of such injustice, as affording facilities to clandestine slave trade. Meantime it should be remarked, that no part of the colonial code is more incapable of any constitutional defence. The assemblies found no pattern for it, as has been seen, in the ancient slavery of England; nor even in their ordinary magazines for precedents of barbarous slave laws, the servile code of Rome. On the contrary, the presumption of law in both those countries was uniformly in favour of freedom.

Upon what principle then can it be maintained, that the continuance of this oppression is reconcilable to the British constitution, as it ought to be in force in our colonies?

Parliament indeed long countenanced the slave trade; and hence it has been often said, and always assumed, by the colonial party, that parliament has also sanctioned that op-

probrious state of man called slavery in the western world. Be it so, for the argument's sake; though no proposition is more open to dispute. But if parliament, by allowing the trade, allowed also the unparalleled cruelty and degradation of the state into which the victims of it were carried, the consequence can apply only to Africans lawfully imported; or at most to them and their posterity. The British legislature has been no party to those iniquitous maxims and rules of evidence, by means of which free men, living under the British crown, may, without the imputation of a crime, be sold into perpetual bondage.

Let it be supposed even that the presumption in question was necessary, while the slave trade was legal, as essential to the security of titles bought in the African market. If so, that necessity ceased with the trade itself. While the trade continued, it could only justify exempting the master from the duty of tracing his title further back than the importation from the African coast: but now, at least, he should be bound to prove a possession of the slave, or of his female ancestors, by himself or some other British subject, anterior to the period when importation from foreign countries ceased to be lawful. From that time, Parliament has ceased to sanction, expressly or impliedly, directly or indirectly, the origination of slavery, from any source extrinsic to the colonies themselves, or by any means which it can be difficult for the owner to verify. The state can now lawfully attach upon new individuals by birth alone; and that is a title which a well-regulated public register easily might, and most clearly ought, to attest.

How then can it be hereafter reconciled with those constitutional boundaries which are prescribed to the power of the assemblies, that all men of a certain complexion when found within the King's dominions in the West Indies shall be presumed in law to be slaves? This is a question of infinite importance to the security of the abolition itself, which well deserves, and cannot too soon obtain, the serious consideration of parliament.

SECTION VI.  
OF ENFRANCHISEMENT.

It was proposed next to consider the state of slavery in our colonies, in respect of its dissolution.

The only means of this as to the individual slave, are direct enfranchisement or death. His posterity, as I have already shewn, may be delivered from the state by such mixtures of their blood, as will wash out the physical by a moral contamination; but the slave himself must be manumitted, or die in his chains.

If a state, like this, can admit of any consolation, except in the prospect of a life to come, it must be found in the hope of one day obtaining freedom. Compared to that grand cordial, all the indulgences of the most humane master can have little interest or value. When I imagine myself in the gloomy and solitary dungeon of Baron Trenck, or some other prisoner of state, destined to be immured for life; and suppose that, like him, I am labouring by years of patient perseverance to work my way, by a minute daily progress in excavation, to a future escape; I feel that, distant though the event must be, and highly improbable as would be my ultimate success, the effort and the hope would be my best human support. I should turn from the most comfortable meal which the compassion of my keeper had provided; I should lay down even the book, which he had mercifully left to recruit my weary mind; and find more interest by far in scraping away the modicum of earth, which I was able daily to conceal, and send by stealth out of my dungeon. I should frequently examine with satisfaction the progress of my work; compare what had already been done with what remained to do; number the months, and weeks, and days, which would be necessary to complete it; and anticipate those delights of free air, sun-shine, exercise, and society, which the consummation of my labours would bestow. Impatience and dejection would indeed often return; but after paroxysms of these, hope would again come to soothe me and animate my efforts. My tyrant would lose much of his purpose, for he would not break my heart, unless by finding out my secret labours, and

preventing their resumption, he should shut out the ray of hope which had cheered me, and plunge me in the darkness of despair.

Such is the value of possible, but far more that of potential liberty, to the slave. What cruelty then can exceed the total privation of this hope; or even its wanton discouragement?

But it is not more cruel than unwise. The hopes and fears of man are the pledges that he gives to society for his conduct. Without these, he cannot be stimulated to the discharge of social duties; or deterred from the most pernicious crimes. But the slave, if shut out from the chance of enfranchisement, has so little to hope or fear in this life, that no human sanctions can give him adequate motives for obedience to the government or the laws. He sees in the civil authorities, the abettors only of his master's despotism, and the rivets of his galling chain. In the same degree that he desires liberty, he must hate the government under which he lives; and can hope only in a revolution, the possible improvement of his state.

It is true indeed that civil disaffection, and a dangerous propensity to revolt, are generally inseparable in some degree from the mischievous and odious institution of private slavery. The community that permits and maintains such a state, places under its own foundation a mine, the explosion of which is a calamity not less probable than just.

But the danger is materially lessened by the frequency and facility of enfranchisement. Though that inestimable prize will be the lot comparatively of a few, the hope of future freedom will influence the many; and, what is of vast importance, will be the most influential with those, who being, from their superior intelligence and energy, the most likely to obtain it, are, from the same causes, likely to give the lead to their comrades, in all cases, whether of obedient or mutinous conduct.

These principles, though self-evidently true, do not rest for their authority upon theory alone. They are confirmed by experience. The most hopeless slavery has always been the most dangerous to the state.

In England, where enfranchisement was the most copious and rapid, till liberty at length became universal, I recollect

no instance on record of a servile insurrection. In the Spanish colonies, where it has been next in extent, such calamities, if they have ever occurred, have been extremely rare; and we have recently seen that all the efforts of enfrustrated parties have failed on the continent of South America to excite the slaves to revolt against their immediate masters; and that in Cuba, where they most abound, there has been a perfect internal calm, in spite of the hurricanes around them. In the colonies of Holland and Great Britain, on the contrary, where manumissions are the scarcest, insurrections have been peculiarly frequent.

But the most interesting view of individual enfranchisement is the tendency which it has to terminate, in the safest and happiest way, the cruel and odious institution out of which it grows.

Whether the slavery of our colonies be a great national crime or not, this I may at least assume, that it is a deplorable evil, which no wise or good man can behold without an ardent wish for its termination. But the cure, to be safe, should be gradual; and though progressive meliorations by law of the condition and treatment of the servile class at large, certainly ought to be made, they are, it must be admitted, of rather difficult execution. While the present vast disproportions in point of numbers between the slaves and the free colonists exist, and while the colonies are governed as at present, those legal improvements could not perhaps be carried to perfection without some political dangers. When advanced so far that the civil distinction between slavery and freedom began to be doubtful or small, their progress perhaps would be accelerated or stopped by dangerous convulsions: at least there would be that danger in colonies where political and legislative authority is lodged in a petty interior assembly, composed of and elected by the white people alone.

The best mode of gradation consequently is that which progressively reduces the comparative number of the slaves, and increases proportionably that of the free population, by means of individual manumissions; though this happy progress should certainly be accompanied, and kept pace with, by meliorations of the state itself.

Here again history may be instructively consulted.

The reformation of the servile code of Rome, was attended with no civil disorders; because manumissions, through the benign influence of Christianity, became so copious soon after that reformation commenced, that the slaves speedily ceased to bear a dangerous proportion in number to the free citizens and libertines of the empire.

Our own country affords a still more impressive example. The manorial villeins, indeed, for the most part, were raised into copyholders and free peasants, by almost imperceptible degrees; and through a change of manners, rather than of laws. But even among these, individual manumission, whether by voluntary act on the part of the lord, or by the humane constructions of law, was a most powerful concurrent cause; and as to the villeins in gross, or personal slaves, I am aware of no melioration of their state by force of law, until by simple manumissions, actual or constructive, that condition of men ceased to exist. If in the last case of villeinage we have on record, which was in the fifteenth year of James the first, the claim of the master had been allowed, the villein would have been liable in law to the same slavery which existed from the time of the Norman conquest.

Voluntary individual enfranchisements, then, are means that may progressively annihilate this curse and reproach of any people in the most innoxious manner; and with such happy consequences, though perhaps not always with a direct view to them, the legislatures of all countries in which slavery has existed (*the Assemblies of the English Colonies in our own days excepted*) have much favoured the conversion, by the act of the master, and by other means, of slaves into free men.

## SECTION VII.

### OF THE DIFFERENT MODES OF ENFRANCHISEMENT.

ENFRANCHISEMENT, or the dissolution of the state of slavery, may be conveniently distinguished into three different modes or kinds: 1st, *Redemption*; 2d, *Manumission*; 3d, *Enfranchisement by public authority*.

## 1. OF REDEMPTION.

The redemption of a slave is distinguishable in its cause, though not in its effect, from a manumission. When indeed the redemption is made by an agreement, voluntary on the part of the master, and immediately carried into effect, in consideration of a price paid by the slave, or by a third person on his behalf, it differs from a manumission in name, rather than in substance; for it is not essential to the character of the latter that it should be gratuitous.

I mean, therefore, by "redemption," the dissolution of slavery by force of a condition previously annexed to it for the benefit of the slave, the performance of which, on his part or behalf, intitles him to his freedom by law, independently of the master's will.

Slavery has not every where been redeemable. It is almost needless therefore to say, that there is no such mitigation of the state in the British Colonies, where it rarely differs, except on the side of severity, from the worst precedents that human oppression has furnished in any age or country.

It is there, not only hereditary and perpetual, as we have already seen, but unconditional, and not liable to redemption by force of law at any period, or at any price. Without the master's consent that terrible relation can never be dissolved.

We can consequently in this point have no comparison of modes or degrees with the provisions of foreign laws. Under the interesting title of redemption, the slave codes of our colonies are perfect blanks. Yet it is not unimportant to shew what the laws of other countries, ancient and modern, have ordained on this interesting subject.

At Athens, the slave, when possessed of property enough to redeem himself, could, by paying the value of his servitude, compel the master to accept it as the price of his enfranchisement. \*

I find no express recognition of such a right in the servile laws of Rome; and apprehend that the master there was not strictly compellable to allow of a redemption. Yet the practice of permitting slaves to purchase their freedom for money, was, as every classical reader knows, extremely common; and

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\* Potter's Grec. Antiq. vol. i. book i. cap. 10.

in many of the allusions to it, the concurrence of the master seems to be regarded as a matter of course, when the price of the redemption could be found.\* It is probable, therefore, that manners, which often well supply the place of laws, had imposed upon the master an honorary obligation not to refuse to his slave the inestimable benefit of manumission, when a fair equivalent for the value of the servitude was offered.

It is to the credit both of the Roman master and the Roman lawyers, that the price of such redemptions was generally paid out of the slave's *peculium*; and yet the contract between him and his master in such cases was held by the courts to be founded on valuable consideration, and enforced against the manumittor and his representatives by law. That the slaves were often rich enough to purchase their freedom with their own money, proves at once the liberality of their treatment as to allowances of food and clothing, their savings out of which were the ordinary means of acquiring the *peculium* †, and the delicacy with which their imperfect right to that property was respected. The judges, on the other hand, humanely disregarded obvious technical objections to the contract, arising both from the slave's personal incapacity, and the want of valuable consideration. Though in strict legal theory the *peculium* belonged to the master, and therefore to pay him a part of this, was only putting him in possession of what was previously his own; yet for the special purpose of sustaining redemptions, the slave's *peculium* was regarded as his own property, and not that of the master. ‡ The mode of the transaction was a sale by the latter to a third person, "to the intent that the slave should be manumitted," and the trust was enforced by law.

By these means the facility of obtaining freedom was so great, that, according to Cicero, the sober and industrious slaves, who became such by captivity in war, seldom remained in servitude above six years. § Such enfranchise-

\* Plautus in Rudente, act iv. sect. 2. Mart. lib. vi. epig. 88. Tacitus, Annal. lib. xiv. cap. 42.

† *Peculium suum, quod comparaverunt ventre fraudato, pro capite numerant.* Seneca Epist. 80.

‡ "Conniventibus oculis (says Ulpian) credendum est *suis nummis*, eum "redemptum." Dig. lib. xl. tit. 1. 3, 4.

§ Phil. viii. 11.

ments, however, seem not to have been strictly of the nature of *redemption*, as I have defined the term, though generally so called in the books of the civil law; but rather one of the multiform modes of voluntary enfranchisement which that law distinguished and allowed.

Redemption, in the stricter sense, is a right which has belonged to the condition of slavery in certain cases, by the laws of most countries in which that condition has prevailed.

Though it was an early effect of the adoption of Christianity among the antient German nations, that captivity in war was no longer a legitimate cause of slavery in respect of Christian captives, when their conquerors were of the same religion, yet when free men fell into the hands of pagan enemies, and were redeemed or purchased by Christians, they were liable to be held in slavery by the benefactor; but only until the price of their redemption was repaid.\*

The case also of those who, from famine or other necessity, sold themselves or their children as bondmen, was, by the same laws, equitably and humanely provided for. A right of redemption was given, on repayment to the master of the price he had paid, with an addition of one fifth part. †

“It was thought,” says the learned author to whom I refer, “unworthy of a civilised people, and of the Christian name, “that those who, from a pressing necessity, sold themselves “into slavery, should lose their liberty for ever.”

Civilized and Christian Englishmen of the nineteenth century, have been of a different opinion. They have thought it an impregnable defence of perpetual hereditary and irredeem-

\* Potgues. lib. iii. cap. 15. He quotes the Capitulary of Charles the Bald, king of France, anno 864. “De his qui liberi a paganis capti fuerint, si aliquis eos redemerit, ipsi qui redempti sunt procurent, ut tantum pretium “redemptori suo donent, sicut ab eo redempti fuerunt, et in sua libertate “permaneant.”

An exception is made as to captives redeemed by the church; which were to be enfranchised without any ransom at all.

† Saine authorities. “Hic ponere necessarium duximus, in quo dicit, ut “quicunque filios suos (quod et de liberis hominibus qui se vendunt observari “volumus) qualibet necessitate, seu famis tempore, vendiderint ipsa neces- “sitate compulsi, empor si quinque solidos emit sex recipiet, si decen- “duodecim solidos similiter recipiat: aut si amplius, secundum supra scriptam “rationem augmentum pretii consequatur.”

able slavery in the West Indies, that Africans are alleged (though upon doubtful authority) sometimes to have sold themselves or their children upon the pressure of a general famine. \*

The injustice and inhumanity of deriving from this pitiable source of slavery an irredeemable title to the unfortunate self-devoted bondman and his posterity, are so manifest, that it is not strange, though curious, to find a pretty close correspondence on this subject, between the laws of Europe in the ninth century, and those of Hindostan.

If a Gentoo becomes a slave, in consideration of his being fed, and thereby having his life preserved during a famine, he is entitled to redeem himself on payment to his master of the value of the food he received in that time of necessity, with the addition of two head of cattle. †

Nor is this the only case in which the ancient institutions of that country have annexed to the very mild species of slavery which they permit, the important right of redemption. They have, on the contrary, nicely regulated this right, and with much apparent equity, with reference to the various different origins of the state itself; of which they have distinguished no less than fifteen. The terms of redemption respectively applicable to nine of them are expressly and carefully defined.

The *Mookhud*, for instance, or slave who consented to become such to satisfy the claims of a creditor, or to obtain money for the discharge of what he owed to others, is intitled to his freedom on payment of the debt; though if he had sold his freedom for money, without any such meritorious or urgent motive, he could not have redeemed himself without the master's consent.

The man who sells himself in consideration of the master's engaging to provide him with a subsistence, may obtain his freedom merely by renouncing that subsistence for the future. Nor is the powerful motive of love treated with less indulgence; for it seems that attachment to a female slave sometimes induces the Gentoo to submit to the condition of *Doss*, or

\* Defence of the Slave Trade on the Grounds of Humanity, &c.

† Halhed's Code of Gentoo Laws, chap. viii. sec. 1. and 2.

slave, for her sake ; and in this case, he may regain his liberty by merely renouncing the object of his passion.

The native of Hindostan, like our German ancestors, sometimes feels the propensity to gaming stronger than his fear of bondage ; and loses his freedom at play. But here the law reasonably makes less allowance<sup>1</sup> for human frailty. The terms of redemption to the *Punjeeet*, or slave thus made, are like those prescribed to the *Joodeh Perraput*, or prisoner of war, and are the severest in the whole code ; yet both the punjeet, and the joodeh perraput, may redeem himself on giving two other slaves of equal value in exchange.

That the modern slavery imposed by the piratical states of Barbary on their prisoners of war, is of a redeemable nature, is sufficiently notorious.

The same right of redemption, I apprehend, prevails throughout the Turkish empire ; for I find it expressly recognised and regulated by the Koran. The master is commanded to give to all his slaves, or at least to all that behave themselves faithfully, a writing fixing beforehand the price at which they may be redeemed, and which he is bound to accept, when tendered by them, or on their behalf. \*

Nor is negro slavery itself, in foreign colonies, unmitigated by this important right. In Brazil, the slave who can pay the value of his servitude by the savings of his own industry, has a right to demand his freedom. And the case frequently arises ; for in some parts of that colony, the slaves have two days in every week allowed to them for their own use : in other parts, one day at least, exclusively of Sundays, and other festivals, which the industrious employ in providing a fund for their redemption. †

In the Spanish colonies the law is still more liberal. The enslaved negro may not only compel the master to accept of his value, when tendered, as the price of his freedom, which value, when contested, the civil magistrate is empowered to adjust ; but may even redeem himself progressively, by paying a portion of that price, for an equal proportion of the time during which he is bound to labour for the master. When

\* Sale's Koran, chap. xxiv.

† P. C. Rep. Part 6. Tit. Portugal.

rich enough, for instance, to pay a sixth part of his appreciation, he may redeem for his own use, one day in the week; by employing which industriously he will of course be much sooner enabled to buy out a second day, than he could have been through any other application of the money first acquired; and by pursuing the same laudable course, the remainder of his time may obviously be redeemed with a continually accelerated progress, till he becomes entitled to an entire and final manumission. \*

This method of enabling the slave to turn his voluntary industry into a sinking fund, as it were, for the redemption of the master's rights, and their gradual extinction, seems to be equally politic and humane. It encourages, in the strongest possible manner, the virtues of industry and foresight; while it avoids the inconveniences sometimes incident to a sudden transition from total slavery to a full and absolute freedom. The first partial attainment of that blessing is not placed at a disheartening distance; and when attained, it must not only confirm the good habits of the man himself, but prove to his fellow-slaves the most powerful of excitements to equal industry and prudence. Instead of being, by a sudden enfranchisement, removed at once into a higher sphere, and beyond the reach of their observation, he continues long under their eyes, an example of the good effects of those virtues which have enabled him, during one or more days in the week, to enjoy the blessings of freedom, by employing that portion of his time to his own choice, and for his own advantage.

The slavery of Africa itself may be in some measure regarded as of a redeemable nature. That freemen given in pawn for debts are to be set at liberty by satisfying the creditor, results from the very object of that practice; but this is not properly a redemption from *slavery*, as they do not pass into that state, till forfeiture by non-payment of the debt within the appointed time; after which their embarkation in a slave ship soon becomes a perpetual foreclosure.

In respect of the free domestic servants or grumettas, seized for the master's insolvency, we learn from Mr. Park's

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\* P. C. Rep. Part 6. Tit. Spain. Malouet sur les Colonies, Tome 4. Introd.

and other accounts, that they are certainly redeemable; but whether after a sale by the creditor does not appear. \*

Of the slaves properly so called in Africa, however brought into that state, it may be said, that their harsh condition, if not liable to redemption, is, at least, temporary, and defeazable in its nature; and has many chances of being soon dissolved, while they continue in the hands of an African master; for we have already seen† that he cannot fully, or for any considerable time, avail himself of their labour, without converting them into grumettas. This, however, may more correctly be considered as a mode of voluntary manumission, than as a redemption, in consideration of their labour; since it is optional on the part of the master so to employ them, or to keep them on his slave-chain till a purchaser is found.

If the proper slavery of Africa, however, is, strictly speaking, like that of our colonies, irredeemable, it does not partake of those other terrible properties of the latter, perpetuity and transmission to the issue. To give it these, there must be a transfer from a barbarous to a civilized, from an African to a West Indian master. ‡

### SECTION VIII.

#### OF MANUMISSION.

THE second mode or kind of enfranchisement which I distinguished is *manumission*. It differs from the other kinds as being the voluntary act of the master, neither resulting from any legal right of redemption in the slave, nor compelled by any judicial or political authority.

The term is derived by a very intelligible metaphor, from *mittere*, or *dimittere manu*, to dismiss from the hand, or the power of the master; and many of its ancient symbolical forms corresponded with this etymology.

The modes of manumission by the Roman law were very numerous. §

\* See Park's Travels, p. 288. *Supra* 87., and note L.

† *Sup.* p. 70, 71., &c. and Appendix, No. 2.

‡ *Ibid.*

§ “ *Multis modis emancipatio procedit; aut enim ex sacris, constitu-*

The touch of the *vindicta*, the lictor's rod or stick, laid on the head of the slave, by order of a civil magistrate, is the mode best known from classical authority; and was in early times of the most frequent use: its effect also was the most conclusive, and the liberty conferred by it the most perfect.\*

But a declaration of the master before his friends, a letter written by him, his will, or other disposition in contemplation of death; and other acts of different kinds indicative of his intention to manumit, such as inviting the slave to sit at table with him as a guest, were also effectual enfranchisements; though at some æras of the Roman law, they did not suffice to confer the same civil privileges with the former. To these modes, the Emperor Constantine added one that was afterwards pre-eminently in use, "manumission in the church," which was a production of the slave before a priest, officiating at the altar; and a public declaration by the master, that he released him from slavery. If there had been a previous instrument of enfranchisement in writing, it was read publicly in the church, and attested by the priest †; but this was not

"tionibus in sacrosanctis ecclesiis, aut vindicta, aut inter amicos, aut per epistolam, aut per testamentum, aut per aliam quamlibet ultimam voluntatem: sed et aliis multis modis, libertas servo competere potest, qui tam ex veteribus, quam ex nostris constitutionibus, introducti sunt.

\* Instit. Justin. Lib i. Tit. 5. De Libertinis.

\* Tacit. Annal. Lib 13. Cap. 26, 27. I am inclined to think, that the meaning of this symbolical enfranchisement may be found in a distinction which I have noticed between the Roman and the modern colonial slave law. The Roman slave was not punished by the magistrate for offences against the master, at his instance; consequently, when the master brought him as prosecutor before a criminal tribunal, and requested or permitted that he should receive correction from a minister of justice, by order of the magistrate, it was a virtual admission of his freedom.

The *vindicta*, too, it should be observed, was an instrument of punishment applied only to free persons. The scourge or thong, *flagellum*, or *lorum*, was used instead of it, for the correction of slaves, and therefore was more ignominious. Here I apprehend lies a mistake in defences which we have seen of our own military punishments, when they allege the example of the Romans. The soldier was not scourged, but beat with rods or sticks, as in the Turkish bastinado.

† Brotier, in his notes upon Tacitus de Mor. Germ. Sec. 25. has preserved a form of this species of written manumission, and it appears to have been a perfect enfranchisement, extending even to a release of the future rights of the master and his heirs as patrons of the freedman, "ab omni

necessary, as the personal declaration of the master, in that case, was a sufficient and perfect enfranchisement. It has been supposed that this “*Manumissio in Ecclesia*,” was intended by the Christian emperor as a substitute for one of the ancient Heathen modes, which had also a religious character, and had been extremely common; namely, that which was solemnized in the temple of the goddess Feronia. The slave, who was to be enfranchised, having his head shaved, was conducted into the temple, and there had his head covered with the *pileus*, or cap of liberty; which constituted him a free person. Many well known allusions to this practice are contained in the Latin classics.\*

Among the nations of ancient Europe, especially the Franks, the Lombards, and such of the German nations, whose slave laws have been examined in the treatise of Potgieser, manumissions were still more various in their modes, than in the republic or empire of Rome. That learned writer has described a great variety of forms, mostly of a rude and simple sort, by which freedom was conferred in these countries.†

Manumissions under our own ancient law of villeinage, were either express or implied. When express, they were by deed executed by the lord, by way of grant or release to the villein, declaring him to be manumitted and set free.

In still more ancient times, they were made in a more public manner, in the church or market, or in the county court, before witnesses, and by appropriate solemnities. But implied manumissions afterwards became so numerous and various, through the benignant constructions of the courts in favour of freedom, that the express forms seem to have become unnecessary, and to have fallen into disuse.

I feel here a professional pride that prompts me to dilate a little, and to shew my countrymen how much they owe to

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“ vinculo servitutis eum absolvo; ita ut deinceps tanquam si ab ingenuis  
 “ parentibus suis natus vel procreatus, eat, perget partem quam maluerit,  
 “ et sicut alii cives Romani, vitam ducat ingenuam. Et si aliqua procre-  
 “ atio filiorum vel filiarum ex ipso orta fuerit, similiter vivat ingenua, et  
 “ nulli heredum meorum nec cuicunque aliæ personæ quicquam debeat  
 “ servitutis nec libertinitatis obsequium, nisi soli Deo, cui omnia subjecta  
 “ sunt, &c.”

\* “ Quod utinam ille saxis Jupiter ut raso capite, portem pileum.”  
 Plautus *Amphit.*

† *De Stat. Serv. Lib. 3. Cap. 1—14.*

the humane and free spirited interpreters of our law; humane and free spirited, even in an age when the legislature, the nobility, and gentry of England, were disposed to maintain and perpetuate the degradation and bondage of Englishmen.

The Courts, though unable directly to reform the harsh rules of law which intitled one subject of the realm to hold another in slavery, and assert a property in his person, availed themselves to such an extent of the maxim, that the presumption of law is always in favour of freedom, and of that metaphysical subtlety in the science of pleading, which was the fashion of the times, that masters found it extremely difficult to establish their titles; and the villein, whenever he asserted his freedom at law, had multiplied chances of success, independently of the merits of the case.

It has been already noticed, that the master (on whom, whether plaintiff or defendant, the *onus probandi* was cast,) was obliged to prove his prescriptive title by producing in court, at least two of his own villeins, descended from the same male stock with the opposite party, who besides testifying their consanguinity with him, would acknowledge in open court their own servile condition; and yet this was by no means conclusive, but only a preliminary part of the evidence of villeinage, without which, the master could not establish his title. \*

If by failure in this *prima facie* proof, or by any other means, the master, being plaintiff, was nonsuited, it was held to be a perpetual bar to his claim. On the contrary, a nonsuit of the villein, in his action *de libertate probanda*, was no bar to another suit of the same kind. Any number of villeins, of the same family or blood, might join in that action, and the nonsuit of one or more did not prejudice the rest; but the master, on the contrary, was not allowed to prosecute for more than one villein by the same writ; and if the asserted property was in two or more persons, as joint tenants or tenants in common, (in which case they were of course obliged to join in suit,) the nonsuit of any one of them was fatal to the claim of the rest, and a perpetual enfranchisement.

\* See for all these and the following rules, Co. Litt. Tit. Villeinage; Bracton, Lib. 4. C. 21., and Hargrave's argument in the Somerset cause.

But a more copious source of freedom was found in the numberless circumstances of mistake, inadvertence, or neglect, on the part of the lord or his lawyers, which were strained into legal recognitions of the liberty of the party claimed as a villein. The bringing an ordinary action against him, for instance, or joining with him in any suit at law, the pleading to his action without a protestation of villeinage, the praying or assenting to an imparlance in any such action, and other mistakes in pleading, were not only fatal to the master's claim in the immediate suit, but amounted to perpetual enfranchisement by implication of law.

The same was the effect of many acts out of court; such as the lord's giving or conveying to his villein any freehold estate in lands or tenements, the entering into a bond or obligation to him; or acts of mere omission, such as the suffering him to serve on a jury, to enter into any religious order, or to remain for a year and a day in a borough or town corporate, or upon lands held in ancient demesne.\*

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\* Litt. Sec. 202 to 209. 2 Roll. Abr. 735, 6, 7. Britton, Cap. 31. See also Mr. Hargrave's argument in Somerset's case, where most of these rules are collected, with others of a similar tendency.

Mr. Hume says, that the kings, to encourage the boroughs, granted them the privilege, that any villein who had lived a twelvemonth in any corporation, and had been of the guild, should be thenceforth regarded as free; and he thinks this was done in favour of commerce: (Dissertation at the end of the reign of Richard III. note.) But the rule was broader, and seems to have proceeded on some other or more comprehensive principle. It was not necessary that the villein should be of the guild, and it extended to all cities, and to all the king's walled towns and castles; consequently was not confined to commercial corporations. The rule also is more ancient than Mr. Hume seems to have supposed; and preceded the *era* to which he ascribes the dawn of improvements in commerce and the arts. It appears from an abbreviated judgment roll of the 6th Edward II., one of those ancient records which the public spirit and influence of the late Speaker of the House of Commons, Lord Colchester, and the liberality of parliament, have rescued from oblivion, that the rule was either introduced, or confirmed by a charter of William the Conqueror; for to a writ *de nativo habendo*, brought by a grantee of one of the royal manors, to reduce into villeinage certain men alleged to be villeins of that manor, they pleaded, among other things, that they had been many years resident in the city of Norwich; and set forth a charter of the Conqueror, in which was contained, "Quod si servi permanerunt sine calunnia," (by which I understand, without personal exception or impeachment for cause of villeinage,

In short, the general principle was this, to regard every act or omission of the lord repugnant in its nature to the relation of master and slave, as a virtual enfranchisement, or conclusive evidence of freedom.

The difficulties which all these rules imposed upon the lord, were enhanced by the necessity of always maintaining his title, when contested, in the superior courts; for the sheriff, in his county court, was not allowed to try the question of villeinage, nor could he seize the villein on a writ *de nativo habendo*, if the fact of the relation was denied.\*

This extreme favour to freedom distinguished our courts of law as early at least, as the time of Edward I., and next to the influence of Christian piety, was the most effectual cause of the progressive and total extinction of slavery in England.

It appears then that this curse and reproach of human society, has every where, except in the British colonies, had one great mitigation. The law-givers who have established or permitted private slavery, have at the same time not only permitted, but greatly facilitated and encouraged manumissions. A calamity, usually proceeding from the harsh rights of war, has been not only softened, but progressively eradicated, by the benignity of the municipal code.

In the British West India islands, a very different course of things has taken place. There, the petty legislatures, and the courts of law, have vied with each other in hostility to freedom. The same relentless codes which are singular in denying the humane and salutary right of redemption, are not less singular in their strictness as to voluntary manumission; and in the cruel restraints, not to say virtual prohibitions, recently imposed on it.

No implied, or constructive enfranchisement, in the first

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in due course of law) "per unum annum et diem in Civitatibus Regis vel in Burgis Regis muro vallatis, vel in Castris Regis, a die illa liberi efficiuntur, et liberi a jugo servitutis suæ sint in perpetuum," (Placitorum in Dom. Capit. Westm. Abbrev., &c. p. 316.)

The judgment, however, was not given on this ground, but that of another constructive enfranchisement, which the defendants also pleaded; viz., a grant from Edward I. to their father, of lands in Norwich, to hold to him and his heirs; which was held decisive in their favour.

\* Mr. Hargrave, ubi. sup.

place, is there in any case allowed; and as to express manumissions, they can only be effected by a will in writing, executed and attested with due solemnities, or by a solemn deed under the hand and seal of the master, accompanied in both cases with registration in a public office. The same laws which permitted slavery to originate by parol contract, if made on the African coast, or in a Guinea yard in the West Indies, and which still allow the master to deduce his title by parol evidence, and demand no proof of the servile state beyond the colour of the skin, forbid its dissolution, except by the most solemn, and the best authenticated writings.

In this respect, as in a hundred others, the assemblies, in their contempt for an oppressed race, have reversed an ordinary maxim of legal policy, as well as the principles of natural justice.\*

One consequence of such severity is, that any defect in the instrument, or in the proof of its having been duly executed and registered, is fatal to a claim of freedom. The Roman and English law-givers promoted this act of beneficence on the part of the master, as has been shewn, by multiplying its modes, and eagerly giving effect to every indication of his purpose; but the assemblies have made it as difficult to give a slave his liberty, as to alienate a man's landed estate.

We shall soon see that this instance of disfavour to freedom is by no means the worst. Meantime, let it be considered how much the practical effect of such strictness must be aggravated by the legal presumption against freedom, and by the civil incapacities of the slave. The donor of freedom, or his representative, if liberal and compassionate, might not assert a master's rights against an irregular gift; but a flaw in a negro's manumission is fatal to his freedom, not only as between himself and the former master or his representatives, but may enable a stranger effectually to usurp over him a master's rights, or expose him to be sold as an unclaimed run-away by the police: for the presumption of law being placed on the side of slavery, any valid objection to the deed of enfranchisement, virtually establishes the claim or defence of a master *de facto*, or subjects the freedman to be dealt with as a slave,

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\* *Quidque dissolvitur eo ligamine quo ligatur.*

without further examination. The negro not proving himself to be free, there is an end of his legal personality; he can be heard no more, either as plaintiff or defendant, in any colonial court; and any oppressor assuming a master's power, wants, as we have seen, no judgment or process of law to warrant the fullest exercise of his pretended rights.

Great then, it is evident, would be the comparative severity and illiberality of our colonial laws in what respects the dissolution of this state, as well as in the nature of the state itself, if I had no more to allege against them. But every former reproach on this head will be forgotten, when the reader shall be apprized of those recent and direct, though barbarous and unprecedented, restraints on manumission, in many colonies, of which the story remains to be told.

Before we proceed to contemplate these anomalies in legislative policy, it may be useful to point out their source.

Among the many aggravations of the evils inseparable from the institution of private slavery which its confinement to a particular race naturally produces, is a feeling at once contemptuous and jealous, in the minds of the privileged class, which opposes the admission of individuals of that degraded race within the pale of civil freedom. A prejudice imbibed from the first dawn of reason, and progressively strengthened by the long associated images of slavery and a black or tawny complexion, represents to the mind of the white creole the bondage of negroes and mulattoes as their natural condition; and their liberty as a presumptuous usurpation of privileges which ought exclusively to belong to his own elevated class. But among the whites in subordinate stations, and such of them as are engaged in mechanical occupations, or in the lower walks of commerce, this prejudice is nourished not only by education and habit, and by the contagion of social sentiment, but also by self-interest; for the free coloured people are their powerful competitors, and often their successful rivals, in employment and trade. It has been truly alleged, though for the purpose of most unfair and deceptious inferences, that free negroes and mulattoes in the colonies are never known to earn their bread by agricultural labour. The true reasons are, that the driving system makes such labour vile in price, as well as disgraceful in character; and that they can maintain

themselves far better by much easier and creditable employments. The same favour, or the same talents, which procured their manumissions, will commonly enable them to raise capital enough to embark in some retail trade; or to gain a comfortable support as artizans or mechanics, or upper domestic servants. Now, in whatever way they earn their subsistence as free men, except as menials, the poorer whites naturally regard them with jealous eyes, as supplanting themselves, or persons of their own order. Hence, as well as from disgust at all approaches to equality with the despised African race, the increase of the free coloured people has always been a subject of dissatisfaction, and of indignant complaint, with the white inhabitants of our islands.

When the Roman slave or the English villein was enfranchised, he formed a scarcely perceptible addition to the mass of citizens or subjects previously free. All the sympathies of nature pleaded for his welcome reception into their order, and no private interest was large enough to be discernible on the other side. The conversion of slaves into free men, therefore, was not more favoured by the laws, than by the popular voice. It is in small societies only, and when the free members of them are few in number compared to the slaves, that personal freedom can be regarded as a source of emolument, in respect of the functions and capacities attached to it, so as to beget a spirit of monopoly in its possessors. But such a spirit is certainly felt among the poorer classes of whites in our islands; and very powerfully concurs with a proud tenaciousness of the complexional superiority, to make enfranchisement odious in their eyes.

It is by the white colonists, who are lowest in station and fortune, that the distinction of colour is the most proudly and violently maintained. It is a distinction which not only saves their poverty from contempt, but gives them some degree of consequence and power, even in the meanest and most indigent state to which fortune can reduce them. It enables them to exact profound respect from nine-tenths of the community; and puts them on a footing of equality with the remainder; for the inherent nobility of European blood makes compeers of all the whites; nearly levelling in their manners toward each other, all disparities of rank and fortune. Such of them,

therefore, as earn their subsistence in the humbler walks of industry, or who live, as many of them do, in lazy indigence, regard with indignant eyes a free coloured population increasing around them, following, and thereby disparaging their own callings, and enjoying, perhaps, a degree of ease and comfort which they themselves cannot command.

These characteristics may serve to account, in a very natural way, for those opprobrious acts of assembly which I must now proceed to consider—acts which have restrained, and virtually prohibited manumissions; for the poor whites, who form the populace of the West Indies, powerfully influence the insular legislatures.\* Their applause is local popularity, and the *popularis aura* loses none of its force by being confined to the area of a small society. On the contrary, the flame of public spirit, which it fans, has always burnt bright and high in an inverse proportion to the magnitude of the state.

Let it be remembered too, that this influence in a colonial assembly has no counterpoise as in the parent state to balance or oppose it. The executive government has nothing, or scarce any thing, to bestow, which the members think worth their acceptance; and I am sorry to be obliged to add, that the little influence, of a personal or official kind, which a governor may possess, has oftener fallen in with, than withstood the

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\* The influence was fatal at St. Domingo, as soon as the colony was cursed with a legislative assembly; for it is now no longer a question among the ex-colonists in France, that the persecutions cruelly raised, and perfidiously renewed, against the mulattoes, were the true causes of the ruin of that island; and it was notoriously the *petits blancs*, or white mob, who were the chief authors, not only of the insurrectionary massacres of which the *gens de couleur* were the victims, but of the insane policy by which the assemblies and municipalities insulted, oppressed, alarmed, and finally drove them to despair. It was by the *petits blancs* that the municipal officers and committees were elected and filled; and it was by their clamour and violence also that the colonial assemblies were urged on, at the very crisis of their fate, to the most desperate measures of hostility against the free coloured people; a body which alone could, and but for their own madness certainly would, have saved them from destruction. St. Domingo was made an accidama and a ruin, because it was virtually governed by a white mob; and because that mob hated the free negroes and mulattoes more than it feared the slaves.

tide of popular feeling, when new legislative oppressions of the unfortunate slaves and people of colour have been proposed in the assemblies. How, indeed, can the contrary be expected, while men nursed in the same local prejudices, and strongly tempted by their necessitous circumstances as planters to all the ordinary abuses of a master's power, have so very commonly been selected to preside over our West Indian islands; and when the governors are made dependent in a great degree on the assemblies for the emoluments of their offices.

It might excite surprise, perhaps, were the force of these causes fully known, that such cruel innovations as I have to notice were not sooner introduced; but there were difficulties in so gratifying the *petits blancs* of our islands; not only from the fear of the royal negative, which formerly was very often opposed to acts of assembly new and objectionable in their principles, but from the opposition of private feelings in the councils and assemblies themselves. Such members as had natural children, or concubines, in a state of slavery, were naturally averse to restraints, by which the door of freedom might be shut against their own offspring.\*

At length, however, a way was found in one or two colonies of reconciling in some degree the popular wish, with the private feelings of the legislators; and restrictions were devised, such as we shall presently review, on pretences specious enough to hide from the eyes of those who advised the crown in such cases the true object of the odious innovation. The expedient was to impose, under the pretence of a regulation of police, such a heavy tax on manumissions, or to require such securities upon them, as would greatly check them in ordinary cases; and yet present no formidable impediment to an opulent man, when wishing to gratify natural affection, or impure attachment, by the grant or purchase of freedom.

The sacred principle of favouring enfranchisement by law, being once violated, further innovations in the same spirit

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\* If the reader doubts that private feelings of this kind were likely to be active in every colonial assembly, I might refer him to almost every writer who has noticed the manners of the West Indies. I will mention only Mr. Bryan Edwards's History, Book iv. Chap. 1.

were found comparatively easy. Other legislatures did not scruple to copy the precedent, and even to go largely beyond it, in the amount of the tax imposed, on like ostensible grounds. The pretext chiefly resorted to, was that enfranchised slaves were often destitute of any honest means of subsistence, and therefore were obliged to live by thefts, and other dishonest practices. Some assemblies even alleged or insinuated that freed persons became chargeable on the parishes; though in most, if not all, of the islands that adopted this pretence, such charges for paupers of the African race were then, unless I am much deceived, wholly unknown\*; and it is notorious that in every part of the West Indies indigence among the free coloured people has always been extremely rare, especially when compared with its prevalence among the white population. In some of the acts it was expressly recited, and in all virtually assumed, that manumissions were often fraudulent on the part of the masters, their object being to avoid the charge of supporting old and infirm slaves when incapable of labour; a representation that would be credible enough if the master had been compellable to support them in their servile condition, by law; but there was not at the time, nor ever had been, any such legal obligation; and though some of the subsequent meliorating acts ostensibly supply this defect, by prescribing certain allowances of food and other necessaries, they are notoriously inoperative, and incapable of being carried into effect by compulsory means; so that even at this hour, if a master wished to withhold subsistence from his disabled slave, a fraudulent manumission would be perfectly needless and useless. Indeed it would even be adverse to his purpose; for the slave might be more conveniently, because more privately, famished in his servile state, during which he might

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\* This I believe was universally true as to all our islands when their anti-manumission laws were made. It has been since provided by the meliorating act of Jamaica, of 1792. Sec. xvi., and by the meliorating act of the Bahamas, of 1797. Sect. iv. that the vestries may impose taxes on the parishioners, for the support of manumitted negroes and mulattoes, when disabled by sickness or age; whether any similar acts have been passed in other colonies, I do not know; but am told that in St. Christopher free persons of colour do now in fact receive parish relief. The class has much advanced in consideration of late years there, and in other islands.

be confined to the plantation, and could neither be a prosecutor nor a witness. It is obvious, therefore, that if the humane motive in question had been the true one, the assemblies ought rather to have affirmed the manumission if necessary, than annulled it. They might, then, in such cases have charged the master with the freed man's future subsistence, and given a remedy for it which the man himself would have had civil capacity to prosecute. These pretences, however, were not too gross to answer the intended purpose in England, though the indiscriminate and inconsistent provisions of the acts themselves might have served to show their insincerity. The assemblies, therefore, pursued their oppressive course. The original imposts on manumissions were progressively aggravated; and in some instances were carried so high, as to amount to a virtual prohibition in every ordinary case.—They were raised in some colonies to a hundred, in Barbadoes to two and three hundred, and in Saint Christopher to five hundred, and in some cases a thousand pounds, on every slave manumitted; and this without any exception in favour of merit, however strong, or any discrimination in respect of age, or health, or strength, or capacity of self-support; circumstances which, if the professed, had been the true motives of the legislatures, would obviously have dictated many exceptions, as well as great modifications and gradations, of the heavy duties imposed.

Though the professed object was to secure a subsistence for the freed persons, and to protect the parishes from burthens, those objects were for the most part left wholly unprovided for; and were no where promoted in a just proportion to the sums exacted. One or two of the acts affected to give a life annuity to the party franchised; but less by one half than the money would have purchased, even on the youngest and choicest life, though the tax was founded on the assumption, that old age and disease were ordinary causes of enfranchisement. In one island, Grenada, an annuity less disproportionate to the sum exacted was provided by the tax act itself; but was by a subsequent act wholly taken away, and the tax nevertheless retained. There, and in almost every other island, the entire duty was given, not to the parish chargeable, as was pretended, with the freed man's support, if he became

a pauper, but to the colonial treasury; and no part of it was any where directed to be refunded to the manumittor, though his freedman should die the next day. The more common proceeding was to confiscate the whole sum to the public use of the colony, without even the shew of providing in any manner, either for the relief of the freedman when in want, or for the indemnity of the parish.

The frauds which these acts affected to restrain could obviously have no place in manumissions by *will*. If living masters had been compellable by law to maintain their aged and disabled slaves, their posthumous representations at least were free from any obligation to do so; and it has never been anywhere pretended that the assets of a deceased owner are liable to be resorted to for that purpose. No such provision is to be found, I believe, even at this day, in the most specious of their meliorating laws, except in the last edition of that of Jamaica, the act of December 1816, of which I shall presently speak.\* A testator then must have chosen to sin in his grave, without any possible motive, if he had fraudulently bequeathed freedom to a slave, merely because the man was old and infirm, or otherwise disabled, from gaining his own subsistence. Unless we can suppose so useless, unnatural, and incredible a fraud, every testamentary enfranchisement must be admitted to have been designed by the testator as a benefit to the legatee; and if so, the bequest itself affords a satisfactory presumption, that the case is not within the alleged principle of these restraining laws; for the owner of the slave must have known whether he had that capacity to maintain himself, without which, the gift of freedom would be the reverse of a benefit. The testator also, presumably, knew the moral character of the slave to be such, that he was likely to make a good use of his liberty; for the motive of such beneficence, (except, indeed, where a mistress or her children are its objects,) must in general be regard or gratitude, the fruit of faithful services, and more than ordinary merit in the legatee. Notwithstanding these grounds of distinction, the acts have imposed the same taxes and restraints on manumissions by

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\* Act of December 1816, Sect. 41.

will, as on those which are granted by deed in the master's lifetime.

If justice or compassion to this unfortunate class had been principles of colonial legislation, special provisions would long since have been made by law for effectuating, instead of obstructing, testamentary enfranchisements; for dishonest executors frequently dissent from such bequests, or withhold freedom from the legatees, on a false pretence that they have not assets to satisfy the debts of their testator; and the cruel fraud is remediless; the unfortunate negro having neither the means of prosecuting a suit in equity for a discovery and account of assets, nor any civil capacity to sue, till the manumission is actually granted, and his freedom fully established. The executor sometimes takes still further security against any future inconvenience from his complaints. He suffers a judgment and execution *de bonis testatoris* to be obtained against him; and it being the usage in the colonies, to levy on whatever goods of sufficient value the defendant in an execution presents for the purpose, the poor legatee is presented to the officer, and consequently seized and sold; by which means the purchaser, under the express provisions of law, obtains a sure and indefeasable title.

The acts under review obviously furnish new pretences for such oppression, and stronger temptations also to it than before; for unless there is a certainty of a surplus beyond the debts equal to the amount of the tax, the executor cannot fulfil his testator's intention, without risking the loss of the manumission duty out of his own purse; whereas by omitting to do so, he may save, for his own benefit perhaps, if he has assets, the amount of the money, as well as the value of the slave. Yet the acts which give such temptations and countenance to a most cruel species of injustice, afford no protection whatever against it. In one of them, indeed, an act of Barbadoes, I find it is provided as to manumissions by will, that if the heir or executor should refuse to pay the tax of 50*l.*, (which was afterwards raised to 200*l.* and 300*l.*), the churchwarden, to whom it was made payable, might sue for it, and on recovering it, execute a deed of manumission. The legislators, therefore, did not overlook the probability of such injustice; but what remedy do they give to the much injured

legatee? They give him the chance that a Barbadoes church-warden, may choose for his sake, not only to quarrel with a gentleman of the parish, but to prosecute against him a suit in chancery, for a discovery and account of assets, at the peril of costs, in order to attain the unpopular object of adding one to that despised and hated class, the free people of colour!!!

I am not aware that any better or other remedy has been provided for such very probable and pitiable cases, in any Britith colony; and in most, or all the rest of these anti-manumission laws, there is no pretence of giving any remedy in such cases at all.

In Jamaica, the restriction on enfranchisement is not in the form of a tax, to be paid on the execution or registration of the manumission, but of a bond to be given for the payment of an annuity of 5*l.* per annum to the freed negro or mulatto, for his life; and this, as in the other islands, without any exception as to slaves enfranchised by will, the want of which, as well as the restriction in general, was a subject of the strictures contained on this branch of oppression in the unpublished first impression of the present work; because, among other reasons, the executors could not execute a manumission, without making themselves personally responsible, by bond, for a life annuity. The Jamaica Assembly, in its latest amendments of its Consolidation act, consequent on the Register Bill, has endeavoured to obviate this particular objection, by a specious, though very inadequate provision: the annuity is declared to be a charge on the estate of the testator, and the slave is to be immediately set free, without requiring any bond; saving, nevertheless, his liability to the testator's debt.

If these restraints of enfranchisement had been generally defensible, and if testamentary manumissions had not been without the range of the principle to which they are ascribed, this new provision would have been reasonable enough, as far as it goes; though it leaves the helpless legatee exposed as before, to be levied upon and sold, and consequently for ever deprived of the means of obtaining his freedom, however ample the estate may be, for the payment of the debts. But the objections to the restriction itself, are obviously untouched by this amendment. The legislature adheres to, and at the present æra of vaunted liberality, confirms, the cruel and baneful

innovation of discouraging voluntary enfranchisement; and adheres to it without any such discrimination of age, or health, or moral, or physical qualifications, as the alleged principle of the rule undeniably demands; and in testamentary cases also, to which that principle is wholly inapplicable. If the assembly is to be credited, the discouragement is even greater than before; because, instead of a bond, (which that honourable body represents as in practice almost a mere form, and such as any person might supply \*,) there is now to be the highly inconvenient incumbrance of a life-annuity on the testator's estate. Can it be doubted that the dislike to such a charge will often stand between the owner's beneficence and the freedom of a deserving slave? If he has a real estate, the incumbrance will probably affect the marketable value of his property, by more even than the life-annuity is worth; and if his estate is merely personal, its ultimate administration must be suspended till the death of the legatee; for the executor must retain in his hands, or place out at interest, a principal sum, sufficient for his indemnification. In the latter case, what proportion does the security of the public against the alleged evil, bear to the risk and inconvenience imposed on the residuary legatees? Let the intelligent reader weigh these remarks; and then ask himself whether this new provision was calculated to alleviate oppression, or only to parry a reproach.

If it can still be doubted that the true object of the Assemblies was to prevent, not to regulate enfranchisement, and to check the increase of the free-coloured class, it may be worth while to notice a distinction in the Barbadoes' Act of 1801, between males and females; it imposing a tax of 200*l.* only per head on the manumission of the former, but 300*l.* on the latter. Many obvious considerations would lead us to expect that, when a difference of this kind was made, we should find the favour on the female side; but the real views of the lawgivers suggested to them a decisive consideration in the opposite scale. Free females alone, let it be recollected, can give native additions to the free-coloured class.

If it may be reasonably presumed that there is some general agreement between the feelings and views of different

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\* Report of the Jamaica Assembly on the Register Bill.

West India assemblies, who, under the same local circumstances, have concurred in the same harsh innovations, their true principles and objects will admit of still further demonstration; for some of these bodies have not thought it worth while to resort to any of the pretexts I have noticed, or to practise any reserve; but have freely avowed their principle to be that the increase of the free-coloured population is in itself an evil, and that for this reason manumissions ought to be restrained; to which end their enactments are therefore openly and unequivocally directed.

By an act passed in Saint Christopher in 1802, before which period there was no restraint whatever on manumissions there, it was expressly recited *as a great inconvenience, that the number of free negroes and of free persons of colour was augmented by the enfranchisement of slaves.* It is premised, indeed, that this inconvenience had arisen from a custom prevalent of late years of bringing them from other colonies, and manumitting them in that island; and it is added that suspicious and improper characters were often turned loose on the public; but the augmentation of the free-coloured class is nevertheless treated as the substantive evil to be checked; and accordingly the restrictive enactments comprise slaves long settled or born in the island, as well as others; with this difference only, that while a tax of 1000*l.* was imposed on the manumission of every slave who was not a native of, or had not resided for two years within the island, the natives or residents might be enfranchised at half that price. The sum of 1000*l.* in the one case, and 500*l.* in the other, were directed to be paid into the treasury of the island for its public use; and unless such payments should be made, prior to or at the time of registering the manumission, it was declared to be void.

Of course even the smaller of these taxes was tantamount in all ordinary cases to an absolute prohibition; but in order, I presume, to conciliate some leading men whose parental feelings might be alarmed, a power was given to the council and assembly to dispense with the tax at their discretion, in any particular case. The case of testamentary manumissions was not only generally included, as usual in these acts, but specially noticed; and it was enacted that no negro or other

slave to whom his or her freedom should be bequeathed, should enjoy the same, unless the said sum of 500*l.* should have been devised by the testator, and be paid by the executor into the treasury of the island within six months after the master's death; so that if a testator should omit expressly to devise 500*l.* for the purpose, or if the executor should not choose to hazard the payment of such a sum, and the grant of the manumission (both of which any creditor might dispute), within half the time which the law generally allows him for ascertaining the sufficiency of the estate and paying the legacies; in either case the negro was to lose his freedom; and in the latter case, the executor, if intitled to the residue, was to gain 500*l.* by his prudent omission, in addition to the value of the injured but helpless slave.

There is another clause in this act which marks the true spirit of the system with peculiar force. Such was the hostility to the freedom of the African race in the minds of its authors, that they determined, if possible, to prevent the deliverance of negroes by a master's favour from the actual evils and restraints of slavery; as well as to prohibit its dissolution in point of law. They considered that a master, though unwilling, or unable to pay 500*l.* or 1000*l.* for the legal enfranchisement of a favourite slave, might, during his own life at least, make him or her practically free, in great measure, by not exercising his own rights as master; and they therefore enacted "that if any proprietor of a slave should, by any contract in writing or otherwise, dispense with the slave's service, or should be proved before a justice of peace not to have exercised any right of ownership over such slave, and maintained him or her at his own expence, within a month, the slave should be publicly sold at vendue by the provost marshall; and should become the property of the purchaser, and the purchase-money should be paid into the colonial treasury."\*

I can find nothing in the annals of legislative despotism in ancient or modern times that can bear a comparison with

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\* Papers intitled Colonial Laws, printed by order of the House of Commons of the 5th April, 1816, page 168-9.

this ; and will be obliged to the apologists of the colonies to assist me with a precedent if they can. Yet, be it observed, this act is no obsolete or antiquated specimen of colonial oppression. It was passed about twenty years ago only, and five years after the assemblies of this and other islands had undertaken, in consequence of Mr. Ellis's motion, and the solicitations of his Majesty's government, to improve and liberalize their Slave codes.

I am told, on the private authority of a gentlemen, lately arrived from Saint Christopher, and who cannot well be mistaken as to the fact, that this act has since been repealed ; and believing his testimony (which seems also to be confirmed by an official return, to be presently noticed), I will give the colony credit for having thus relented ; though the act of repeal is not to be found among the Slave laws since transmitted, and printed by order of parliament.

But the repeal does not impair my right to use this act, as illustrative of the general spirit of colonial legislation on the same important subject ; and as demonstrating the true object of such laws. It is only the more incumbent on the government and parliament of this country to prohibit these oppressions in future, when the assemblies are found themselves, in some instances, to have repented of and abrogated their own cruel enactments ; for it proves that the wrongs inflicted by them, though fatal and remediless, were wanton and without excuse. What, in this instance, can be thought of a measure so soon and so totally repudiated by its authors, that, within a few years after the enfranchisement of a slave had been suddenly subjected to a tax of a thousand pounds, having always before been free from any import or restriction whatever, it was again as suddenly exempted from the entire tax, and left wholly unrestrained ? Either such extreme retrogression was unwarrantable ; or the repealed act was a most grievous and wanton abuse of power. But how are the unfortunate sufferers by it to be compensated or relieved ? Beyond doubt, the act, during the few years of its existence, prevented the enfranchisement of many innocent children, and many meritorious slaves of both sexes, who with their posterity must now remain in perpetual bondage, notwith-

standing the repeal ; for the masters in many cases have probably died, and their estates been distributed, and in other cases they have fallen, perhaps, into poverty or ruin, and are no longer capable of that beneficence which was before thus cruelly restrained. \*

Another of these acts of assembly, which I believe to be still in force, is, if possible, still more demonstrative of the spirit in which they have been framed.

It is an act of Bermuda, passed so recently as 1806, and its preamble is as follows : “ *Whereas the rapid increase of the number of free negroes and free persons of colour is a great and growing evil to this community, and to prevent the same it is deemed expedient to regulate the emancipation of slaves.* ”

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• We have some means of estimating in a general way, how many victims the act probably made ; because, though the late returns from Saint Christopher do not furnish any express information as to the tax which had been imposed and repealed, or the time of its repeal, so as to enable us to compare the number of manumissions while the act was in force, with those at prior or subsequent periods ; those necessary *data* seem pretty clearly discoverable from the extreme contrast between the numbers manumitted in the first seven years, and the last seven years respectively of the period comprised in those returns ; they amounting in the former only to twenty-five, or an annual average of between three and four ; while in the latter, they amount to five hundred and twenty-eight, or above seventy-five per annum.—(Papers of 4th March 1823, No. 2. p. 110.)

There is in the printed returns of manumissions from other colonies a plain indication of the years when these taxes existed, and when they were repealed or reduced, for an account of the taxes received yearly on such instruments is set forth. But in Saint Christopher, the enormous amount of the tax, precluded, no doubt, its being ever paid. Its effect must have been a simple and total prohibition ; except in a few cases in which special favour of the council and assembly wholly dispensed with it. The return of the registrar of deeds, therefore, is as to sums received for taxes or fines, a mere blank ; and his certificate subjoined has an ambiguity, which I cannot think accidental, that avoids all express notice of the act and its repeal. The registrar, I know, is a very respectable gentleman ; and probably wished, for the credit of the island, to bury in oblivion a measure of which I am informed he was, as a member of the colonial legislature, a very strenuous, though unsuccessful opponent. I subjoin a copy of the return and certificate, that the reader may judge for himself how far my surmise is just.

It then proceeds to enact, that no slave owner shall emancipate a slave of *forty years of age or UNDER*, except upon condition

*Saint Christopher (No. 3.). A return of all manumissions effected by purchase, bequests, or otherwise, since the 1st January, 1808, to the 30th day of November, 1821.*

Years.	By Deed.		By Bequest.		Total amount each year.
	Males.	Females.	Males.	Females.	
1808	1	0	0	2	3
1809	0	0	0	0	0
1810	0	7	0	0	1
1811	0	1	0	0	1
1812	0	0	3	1	4
1813	1	2	0	1	4
1814	0	3	1	2	6
1815	46	64	2	6	118
1816	45	39	4	2	90
1817	27	65	0	0	92
1818	20	28	1	2	51
1819	22	43	0	3	68
1820	16	55	0	0	71
1821	14	24	0	0	38
Total	192	331	11	19	553

I certify that the foregoing is a true return. And that there has been *no tax laid*, or fine imposed or paid in the island, *for the time aforesaid*, on the manumission of slaves; and that I am not aware of any *existing* law of the said island for that time requiring it. — (Same papers last referred to.)

(Signed)

J. G.

Registrar of Deeds.

It is certainly possible that the act imposing a tax of 50*l.* and 100*l.*, which passed in 1802, may have been repealed before the period comprised in these returns; but the words that I have printed in italics do not clearly require that construction; and I deem it more probable that the repeal was in or immediately prior to 1815, when the annual manumissions suddenly rose from 6 to 118. I deem this the more probable, because it was the year in which Mr. Wilberforce's Register Bill, and the discussions upon it, resuscitated the spirit of reformatory legislation in the colonies. But if I am wrong in this surmise, the effects of the prohibitory law apparently must, as sometimes happens in like cases, have outlived for some time the prohibition itself. Some years perhaps elapsed before the owners of slaves, generally non-residents, were apprized of their liberatory powers having been restored, and before the means of purchasing freedom were again prepared. But whether the act in question was sooner or later repealed, no reader, I believe, who examines the return will doubt that the

of such slaves leaving the Bermuda Islands within three months of the date of the emancipation.\*

A reader who had given credence to the pretexts of other colonial legislatures on this subject, would naturally suppose we had here an error of the press; and that for "forty years or under," we should read "forty years or upwards," because though none of the other acts make any distinctions in respect of age, their ostensible objects plainly should lead to restraints on the enfranchisement of the old, rather than the young; whereas we here have that preference inverted. But the explanation is simply this. In the Bermuda Act the professed principle was the true one; and there being no aim to disguise it, the assembly naturally limited the absolute prohibition to the enfranchisement of the younger slaves, who were likely the longest to be members of the hated class, and to increase its members by procreation. That other colonies did not

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imposition and removal of taxes of 1000*l.* on foreign, and 500*l.* on native slaves, must have been the causes of such enormous inequalities in the numbers of manumissions as the return exhibits; being in the proportions of more than twenty to one.

The imposition and removal of much lower taxes in other colonies will be found to have produced corresponding and proportionate effects. The returns from Tobago, for instance, shew, that before October 27. 1814, when a duty of 100*l.* was first imposed on manumissions there, the numbers enfranchised had amounted to an average of 52*1*/<sub>2</sub> per annum. In the six following years it was reduced to an average of 3*1*/<sub>2</sub>. The tax was then taken off; and in the remaining year, or part of a year, comprised in the return, eighteen is the number of manumissions.—(Same Parliamentary Papers 65 to 69.)

\* See it in the Papers of 5th April, 1816, page 38. to 40. It has a clause limiting its existence to the space of seven years, "from and after the time that his Majesty's assent shall be had thereto, and made known in these islands." Whether that assent was ever given and notified, and when, I do not know; nor whether the act, after such assent, was continued or revived; but finding it returned to the House of Commons on the 1st day of March, 1816, pursuant to an address to the crown, and printed by order of the 5th of April, in that year, I am led to conclude that it was then considered as an existing law; which it could not have been without revival, if either disallowed by the crown, or notified in Bermuda as allowed prior to March or April 1809. Perhaps it may have remained without any notification either of its allowance or disallowance by his majesty; and if so, I apprehend it is still in force; for there is no clause to suspend its operation till the royal pleasure is known; and the limitation clause, as thus worded, can have no effect till an actual notification of assent.

take a like course, was probably because it would have betrayed too clearly their true purpose; the discovery of which was made less open and glaring, at least, by treating all ages alike. To have discriminated in favour of the young, would have much better countenanced their ostensible, but spoiled their real object.

This Bermuda Act follows up its prohibition in the most effectual way. The younger freed persons, if they return to the colony, are to be taken up, transported by public authority, and sold into slavery again. As to those who are above forty years old, a tax of fifty pounds only is imposed on their unconditional manumission, and they may stay in the colony if they will. Further provisions are made for keeping down and diminishing the numbers of the same obnoxious race. They are totally incapacitated from holding any real estate in the Bermuda Islands, or taking any lease, for more than seven years; a species of oppression which I notice only as a concurrent indication of the true spirit of these laws; for in other respects, it does not belong to my present subject. I will only say, therefore, that the justice of such disqualifications, in which Bermuda is not singular, is, at least, equal to their political wisdom.

Having given this general account of the nature and origin of the laws, by which the dissolution of slavery has been discouraged and restrained in the British West Indies, I will not detain the reader, as I first intended, and was prepared to do, with a particular review of these cruel and pernicious laws, and their progress in the different colonies; because I find from papers recently printed by parliament, that most of the assemblies have at length repealed their taxes on enfranchisement; and perhaps before these sheets can issue from the press, others will have followed the example. Most willingly would I therefore have abstained even from this summary view of the subject, and consigned to oblivion, were it possible, these odious and disgraceful laws, if it had not appeared to me probable, from the recency of the act of Jamaica lately commented upon, and other circumstances, that some of the colonial legislatures are still disposed to adhere to the system of discouraging and restraining manumissions, unless the go-

vernment and parliament of this country shall control them in that oppressive purpose. In that view I would offer a few further remarks on the crafty pretexts on which so many acts proceeded, for they may, perhaps, still obtain some partial credit here, though most of their authors have now virtually renounced them.

The Jamaica assembly, in a report I have before referred to, that of December, 1815, has attempted to defend its own share of this new system. "The only object of the law," (says this report), "was to prevent ill-disposed persons from evading the duty imposed on them, of supporting *the old, the infirm, and helpless slaves*, by manumitting them, and on pretence of being free, removing them from the estates, and withdrawing the allowance of clothing and sustenance." "This," continues the assembly, "has been completely accomplished; and in the whole extent of the island you do not behold an infirm and vagrant slave begging in the streets. The repeal of this salutary law," (it is added), "would be highly injurious to the slaves, and transfer the responsibility of supporting them, when past labour, to the parishes."\*

This is a very important as well as plausible passage, and every word of it deserves attention.

The only object of the law having been such as here stated, it follows, in the first place, that the only freed persons, whose necessities and vagrancies gave rise to it, were those who had been manumitted when "old, infirm, or helpless."

We have here also, on the testimony of the Assembly of this our largest, and nearly our oldest West India colony, a further and complete exculpation of the free people of colour in general from the charge of abusing their freedom by idleness, and being in consequence addicted to vagrant and mendicant habits; for though their numbers in Jamaica have long been so large that Mr. Bryan Edwards estimated them thirty years ago to amount to ten thousand, and to constitute half the free coloured population of the British West Indies, we here

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\* See the report, as before referred to, p. 17.

find that there is not a beggar of their class to be seen in that island.\*

I confidently believe the statement to be true; for during a residence of eleven years in the Leeward Islands, I never saw a black or mulatto mendicant, with the exception of a few negroes covered with that loathsome disease the leprosy, who sometimes presented themselves by the way side to the eye of the compassionate passenger, and by their looks and gestures seemed to supplicate relief; but these were not free persons: they were generally understood, at least, to belong to planters, who suffered them to wander, in order to get rid of a nuisance on their estates; and they could not work for themselves; because from their morbid and disgusting state, no one would choose to employ them.

That individuals of the free coloured class sometimes fall into indigence cannot be doubted. They cannot be invariably exempted from the common casualties and misfortunes which make poverty and want so lamentably prevalent among the white colonists around them. But they find resources, I presume, to save them from beggary in the sympathy, and *esprit de corps* of the more fortunate members of their class; like the members of certain religious sects in this country.

The Assembly, it is true, ascribes this exemption of Jamaica from black and mulatto mendicants and vagrants to the Act of 1775: but though as to the fact, the reporters could not be mistaken, as to the explanation, they very probably might; for very few if any of the members of course could remember whether the case was different fifty years ago. I must take leave therefore to say, that upon the Assembly's own statements in the same paper, it is not only incredible, but utterly

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\* It is, perhaps, hardly necessary to observe, that the word *slave*, in the former as well as latter clause of the above extract, is used inaccurately to denote one who had been a slave; viz. a manumitted negro or mulatto. The sense of the paragraph as well as its context, and the whole argument it belongs to, plainly demands this construction; and the reference to visible observation as plainly requires that we should include all negroes and mulattoes, whether enfranchised or free born; for, as there is no *visible* distinction as to the source of freedom, the assembly could not have used this argument if black or mulatto beggars of either class had been seen in their streets.

impossible, that the security required on manumissions should have been the cause of the exemption they boast. It is impossible; because there are only two ways in which the law could in any degree have produced such an effect, namely, either by preventing enfranchisements, or by providing effectually for the support of the enfranchised; but on the facts stated it cannot have operated universally, or even to any considerable extent, in either of those ways; for the report tells us that the act has been so liberally construed as to give effect to its real intention "*without making it operate as a restraint upon manumissions;*" and "*that upon this principle it has been deemed sufficient to satisfy the law that the bond required by the act should be given at any time, and by any person, subsequent to the manumission.*" It is added, "*that the churchwardens do not expect the party executing the manumission to enter into the bond, but any responsible person, of whatever class or colour, being free, is accepted as the bondsman.*"

Taking this account of the practice to be true, it would to be sure be difficult to believe that the necessity of giving or procuring a responsible third person to enter into a bond for a life annuity, operates as "*no restraint on manumissions.*" Upon ordinary principles of action, a master might be expected to pause when called on to enter into such an obligation, though otherwise willing to give up or sell at its value their right to the future service of the slave. It might be presumed also that he would be most likely to demur to such a condition upon those very manumissions which the Assembly tells us the law did not mean to restrain; and little comparatively upon such the prevention of which, as we are here told, "*was its only object;*" for who would not rather be bound to pay an annuity for the life of an old, infirm, and helpless man or woman, than for one in the prime of youth, and of a sound and vigorous habit? besides, the master has to gain something in the one case, by getting rid of an incumbrance; whereas in the other, he has to give up his property in an able and valuable slave.

Such obvious considerations certainly make this part of the assembly's defence a little hard of digestion. But assuming its truth, and that manumissions are not in fact at all checked by

this law, how can it possibly have happened, that the subsistence of all the freed persons has been sufficiently provided for, to the end of their lives? We are desired to believe not only that 5*l.* Jamaica currency *per annum* is sufficient to keep a free person, when disabled by age or disease, from want; but that a bond for it, no matter when taken, or *from whom*, is an infallible security for its payment. In a climate in which life is so very perishable, and personal responsibility so much more so, it is enough, it seems, to have a bondsman, in order to secure that a child of a year old enfranchised to day, will never want a subsistence if he should live to three score and ten!! The poor Africans, who suppose that there is a magical virtue in every written paper, may perhaps believe this; but it is too gross for European credulity.

If, however, all this could be credited, how can the assembly explain the absence of want and beggary among that large portion of the free coloured class who have no bondsmen, and no life annuities at all, they never having been manumitted, but free born? Does the liability to fall into want and beggary end at one remove of this indolent class from slavery? or do the immortal bondsmen, after the death of the annuitants, gratuitously continue the same ample support to their children and descendants? If not, the streets of Jamaica should, notwithstanding this wonder working law, be infested with beggars of the first and second generation.

The assembly, however, in telling us that the act is so liberally executed as not to restrain manumissions, gives up in effect its defence of the act itself; for to restrain manumissions is its object; and if they are not restrained, the object is lost, and the act is at least useless. These apologists were conscious that they could hope to justify such restraints, in European eyes, only under such special circumstances, as they pretend were solely in the view of the legislature; but unluckily the act is general. It restrains the manumission of the young and able, as much as the impotent and old; and in a way that clearly precludes any practical discrimination between them. The lax and merely formal execution of the law therefore in all cases was thought a necessary further plea, however ill it comported with the former; and though it consisted still less with the pretence that the act had fully accomplished its purpose.

It is obvious, that utterly insufficient though this defence is to justify the Jamaica law, it suffices for the condemnation of that of every other colony in which the taxes upon enfranchisement are yet unrepealed. If every alleged object of these laws has been accomplished in that large and populous colony, without any duty on manumissions, and by the owner or any third person giving bond for a life annuity of *5l.* currency, what excuse or extenuation can be offered for acts that exact large sums from the manumittor or his representatives for the public use of the colony; and which, unless these mulcts for beneficence are paid, annul the grant of freedom?

There is one colony, it appears, among those in which this species of oppression is not abandoned, or not yet known to be so, that either exacts security, or imposes taxes on manumissions, not by any general law, nor to any limited amount, but at the discretion of the local government. I mean Demerara; one of those new colonies on the South American continent, fatally for our insular planters and their slaves, acquired at the last peace by this country.

Over this colony presides one of its own planters, Lieutenant Governor Murray; and what is there called the Court of Policy; a kind of council, the members of which, as I understand, are appointed by, and act during the pleasure of the governor or the crown; and they also, I believe, are all planters, or at least slave owners within the colony.

This court, and the governor, who as I understand presides in it, appear to exercise, (under what authority I know not,) the formidable power of shutting the gate of freedom, or opening it on what terms they please in every particular case; acting herein not only at their discretion, but without any fixed rules or principles to govern that discretion, or any account rendered of the grounds on which they exercise it; and consequently without the review of any other human power.

As this may seem very extraordinary, I refer the reader for full proof of it to the official returns of Lieutenant Governor Murray himself; contained in parliamentary papers of the last session.\*

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\* See papers marked Slave Population in the West India Colonies, No. 2. printed by order of the House of Commons, of March 4th, 1825, page 73. to 81.

The governor, it would appear, had some apprehension that his heavy impositions upon freedom would not be so popular here, as with his brother planters of Demerara; for he sets out with remarking to Earl Bathurst, that his lordship would perceive a "considerable gradually operating reduction in the " sums required to be *deposited* by those who apply for the " manumission of slaves," (why the term *deposited* is used here, I cannot tell; it clearly appears from what follows, that the money is not a pledge, but an absolute and final payment.) " Freedom," he says, " is often given gratis, or for small " deposits, when the reward of distinguished merit, or ob- " tained by parties who have lived in reputed freedom with " fair characters." (It will appear on examination of the returns, that the gratis manumissions are 19 out of 479, and the smallest sum paid in any case is 250 gilders). He adds, " large sums are sometimes imposed after mature de- " liberation on the situation of the slave, the circumstances " of those who apply on their behalf, and not unfrequently " their irregular connection with them."

That large sums are imposed is too clear; but as to the reasons, the returns referred to add nothing to this very convenient and adroit generality. We find in them very frequently such enormous sums as 1000, 2000, and even in one instance 3000 gilders, but never any explanation of the cause; and the description of the manumitted parties is often such as precludes the suspicion of the most specious of the general reasons insinuated by the governor, viz. demerit in those who are to have the benefit; very high sums appearing to have been exacted for the enfranchisement of children. Perhaps indeed some of these may have been what Governor Murray calls "irregular connexions," and his rigid morality may regard slavery as the just lot of Mulatto children on account of the sins of their parents. But Negro children also, it appears, have had their freedom taxed as heavily. I find, for instance, a negro woman, Nancy, and her four children\*, assessed at 2000 gilders. In other countries cursed with slavery, and

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\* It is not expressly said in the returns, that the children were *black*; but that manumitted children are Mulattoes, is often carefully specified; and in no instance do we find any child described as a Negro, though many of them most probably were such.

even in some of the foreign colonies, her having bred and preserved such a family would have entitled her to freedom, not only without taxation, but without price; and without her owner's consent. Some of our own colonists have proposed to adopt such a rule as a means of promoting native population; and as to children, it is the sense of His Majesty's government and parliament, that their slavery by birth ought not hereafter to be permitted; but Governor Murray and his Court of Policy, it appears, are of a very different opinion.

Two extraordinary circumstances incidentally meet the eye in these Demerara returns, which, though not immediately in my present path, must not pass unnoticed. It appears that *Indians* are openly held in slavery in that colony; and that the local government not only permits this practice, (which is unknown in most of our islands, though countenanced in one or two of them by old and obsolete laws, and is an abuse peculiarly dangerous in a country that has Indian nations on its frontier), but has publicly recognized it as legal; for I find two Indian women with their children, expressly described as such, among the slaves manumitted; and 500 gilders were charged by the governor and Court of Policy in one of those cases for leave to terminate the wrong.

Here I trust at least we shall not be told, as in the case of the African Slave Trade, that parliament was an accomplice. If we are, let the act be pointed out that has given any sanction to the slavery of Indians.

The other novelty is that by a resolution of the Court of Policy, persons who had lived ten years and upwards in a reputed state of freedom, were compelled to take out letters of manumission from that court, and pay 250 gilders each for them. Upon what pretence, or under what circumstances, this was done, we are not told; but on the face of it the transaction was one that much demands explanation.

But there is a wider difficulty here which I must confess myself utterly unable to solve; and that is to discover by what law, or upon what constitutional principle, the governor or Court of Policy, or both, can impose taxes or make laws in that colony, even for purposes less important than that of restraining manumissions. I am aware that the Dutch laws are retained there, and that under them the Court of Policy had

power to regulate a few petty details of police; but unless I greatly mistake and forget, the power of municipal legislation was reserved to the directors of the Dutch West India Company, in strict subordination to the States General; and I dare venture to affirm, that no authority within the colony extended either in theory or practice, under the Dutch sovereignty, to any such high acts of state as are now, it seems, made to emanate from this court or board of police. As to the governors, their powers in the Dutch colonies were proverbially narrow. Even the fiscals could controul them in many of their executive functions.

It is not pretended by these new fangled legislators, that any annuity is given to the freed persons in return for the sums exacted; or that they have the benefit alleged by the Jamaica Report, of being kept from a dependency, when disabled and indigent, on parish relief. In these points Governor Murray and his board of police are less scrupulous than the insular assemblies. They take the money, and neither give, nor pretend to give, any thing in return. The governor indeed tells us that "these sums are thrown into the poor's fund, upon which they (the enfranchised persons) have *an indisputable claim*, when circumstances compel them to seek assistance." So has every white pauper in the colony. So would these legislators themselves, if they fell into want. They might as reasonably, therefore, take two or three thousand gilders out of the pockets of individuals of their own privileged class, and excuse the robbery by the same plea, of their having cast the money into the Poor's Fund. Governor Murray himself shews by what follows, that neither individual, nor general benefit redounds to the manumitted, when paupers, in respect of these forced contributions; because supposing that free blacks and mulattoes, when in want, are *in fact* supported from the Poor Fund (which is more than the governor asserts), they would, it must be concluded, have been so, if manumission fines had never been paid; for he adds, "this fund is swelled from other powerful sources, " and when these prove insufficient, the deficiency is made "up from the public purse."

I must not dismiss this subject, without noticing with just applause a colony which has never been seduced by bad

example in any manner to restrain or discourage manumissions; but has kept its statute-book unstained by these shameful innovations, from their first origin to the present hour. It is to the legislature of Antigua, the same which recently attempted to secure its slaves from cruel transports, that this further honourable distinction belongs; and we may trace in it that superiority of intelligence, as well as liberality over their neighbours, which the gentlemen of that island are generally allowed to possess. It is in consequence of their comprising a far greater portion of resident proprietors; which is itself, I regret to say, a consequence of the more early and general decline of the island in its agricultural wealth. Antigua has of late years had peculiar temptations to follow the general example, if the increase of the free coloured people had indeed been a public evil, which narrow-minded white colonists are such miserable politicians as to contend; for a natural effect of the distinction here noticed, was that slaves were brought from other islands to be manumitted there; and many of them, no doubt, remained to settle in a place where their freedom, when so obtained, was more secure than in the islands they had left. But the leading minds in this colony were too enlightened, not to perceive that this, instead of an inconvenience, was an important public benefit.

It would not have so been, let me add, if the general character of free negroes and mulattoes were such as their enemies pretend, and if in consequence their poor rates had been increased; for Antigua could ill bear any aggravation of such burthens; but the members of its legislature well know the utter falsehood of pretences upon which other colonies had acted, and British statesmen been misled. They therefore continued to keep wide open the door of legal enfranchisement, to foreign as well as native slaves; and the happy consequence has been that in ten years the free black and coloured population of the island has been nearly doubled. \*

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\* In 1811 it was 2185. In 1821 it had advanced to 3895, being an increase of 1710 in ten years. (See the same Parliamentary Papers of March 4, 1823, before referred to, p. 47.) The number of manumissions during the same period was 1497; and during the fourteen years comprised

If the absurd political jealousy under pretences of which our white colonists would mask their hatred and oppression of this class, a class that in fact constitutes the main strength and security of every West Indian island, had been sincere, or rested on any solid foundation, that feeling could no where have been more natural than in Antigua; for the free coloured population exceeds the white in the proportion of nearly two to one; but the leading inhabitants of that colony have for a long time past been too rational to entertain, and too honest to pretend, any alarm on that account.

The colony of the Bahamas deserves also to be noticed with commendatory distinction in this branch of my subject; for though its legislature had laid a tax of 90*l.* currency on manumissions in 1784, the odious innovation it seems was so unpopular, that the act never was carried into execution, and was repealed in 1796; since which period no tax or other restraint upon enfranchisement has been imposed in that colony.\*

The example of the Bahamas may therefore be fairly cited, like that of Antigua and of the other colonies, who either never have imposed, or have repealed these taxes, in proof that the pretended principles of policy to which they have been ascribed, cannot stand the test of reason and experience. This practical testimony is at least as strong, if not stronger, at the Bahamas, than at Antigua; for in those

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in the return was 1773, and the increase had been progressive; for in the first seven years of that period they were but 691; but in the last seven years 1882. (Same Papers, p. 49.)

\* I do not take these facts from the late returns to parliament, by which it only appears that there is ~~now~~ no tax or fine on manumissions in the Bahamas, (see Papers entitled Slave Population in the West India Colonies, No. 3. Ho. of Com. 14th May, 1825,) but from a report of the Bahama Assembly, on the register-bill question, published with very angry comments, by its agent, Mr. Chalmers, in 1816. The assembly therein repelled with great warmth a charge supposed to have been made against it by the African Institution, in its report on the same question; and indignantly disclaimed the having concurred in this oppressive system. The institution having no previous information as to the practice, might naturally enough have concluded that a tax imposed by law, had actually been paid; though nothing was stated in its report inconsistent with the truth of the case as since stated by the assembly.

islands also, the amount of the free coloured population was pre-eminently large; and the spontaneous abrogation may be thought to speak more clearly than the non-adoption, of a law for checking its further increase, what were the matured opinions of those who have rejected the harsh policy in question. The report also tells us, that an attempt to revive the tax was ineffectual, after an experience of thirteen years had shown the effects of the repeal.

It is well worthy of remark, that the cases of Antigua, and the Bahamas, also strongly illustrate the important truth that the prevalence of individual manumissions tends greatly to meliorate the treatment of those who remain in slavery; and thus by a twofold progress of benignity, to wear out, in the safest and happiest way, the institution itself; for in these two colonies the slaves, instead of diminishing, have largely augmented their numbers by a favourable balance between mortality and native increase; though this happy distinction, I admit, is chiefly to be ascribed in the Bahamas to their failure as a sugar colony, and consequent disuse of the destructive method of driving. \*

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\* For abundant testimony as to the rapid increase of native slaves in the Bahamas, see Appendix, No. III. The actual numbers have indeed since the period of that very satisfactory evidence been deplorably and cruelly diminished by the intercolonial slave trade; for it appears by the printed returns of this year, that in six years, from 1816 to 1822, both inclusive, no less than 1777 have been transported to other colonies. (See Population Returns, No. 3. of Papers Ho. Com. May 14. 1823.) Still, however, the prolific effects of adequate sustenance without excess of labour are seen in the remainder; for on examination of these returns it will be found that between the 1st of January, 1819, and the 1st of January, 1822, the numbers of the exported were 960, and of the manumitted 177, making together 1137; which, therefore, as it is stated that there were none imported, would have been the actual loss of numbers, supposing the births and deaths to have been equal during that period; but the whole number of slaves on the 1st January, 1819, was 11,155, and on the 1st January, 1822, there remained 10,649; the loss therefore was only 506, and consequently the excess of births beyond deaths must have been 631 in three years.

The increase of native slave population at Antigua has long been notorious; and in the Parliamentary Papers of this year, Sir B. D'Urban the governor shows that notwithstanding an excess of exports beyond imports of 120 slaves, the increase from 1811 to 1821 had been 757. (Slave Population, No. 2. Papers of March 4, 1823. p. 47.) But the governor, though

Let not the reader suppose that I have exhausted this interesting subject, or availed myself of all the arguments that I might have derived from reason or authority in condemnation of those arbitrary laws, by which manumissions have been discouraged or restrained. I was prepared to show by a detailed review of their most specious provisions, the inconsistency and insincerity of the pretences on which they were founded; and had printed much to that effect. But I now suppress it, for the reasons already assigned; namely, the total repeal of those laws by most of the assemblies that had adopted them, which I collect from the recent returns of manumissions from various islands, and from the Grenada act of repeal, which I find among the slave acts presented to parliament \*; and in the hope that this laudable example has been or soon will be generally followed. That Demerara and other colonies in which the king has legislative power, will not be longer suffered in this or other cases to remain

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laudably desirous of pointing out this creditable fact, seems by an oversight to have stated the increase far too low; as he has taken no credit for the manumissions, which appear (p. 49.) to have amounted during the same period to no less than 1497; and though many of these freed persons were probably brought from other islands for the benefit of having their manumissions executed, and recorded tax free in Antigua, and having been previously, perhaps, put actually in possession of their freedom, were probably not imported as slaves; yet as the free coloured class was increased during the same period by 1710, a large proportion of these manumitted persons had doubtless belonged to the slave population of Antigua before their enfranchisement. Allowing liberally for the native increase among the free during the same period, it may be reasonably concluded, that among the slaves it was at least *double* the amount of the governor's imperfect estimate.

\* See this Act among the Papers of 7th June, 1819, p. 24. It is a reformation entirely satisfactory. It fairly recites that the tax discouraged the manumission of deserving slaves, and not only therefore wholly repeals it, but equitably gives validity to all manumissions granted since the first imposition of the tax in December, 1797, upon which the tax had not been paid. Most willingly do I give to the Grenada legislature the applause it deserves for this right and manly conduct; and most gladly should I have consigned to the flames the whole of this review of the colonial slave laws, if I had found in other cases, and in all the colonies, the same disposition to wipe off the reproach to which those laws, whether old or recent, had exposed them.

behind islands governed by assemblies in the course of improvement, and to persist, upon pretences which they have repudiated, in oppressions, which they have abandoned, it would be wronging the government, after its late declarations in parliament, to doubt. But while a single colony, and especially the most important and influential of our islands, persists in hostility to enfranchisement, I could not consistently with the most important of the principles maintained in this work, say less than I have done on the subject. Other laws may needlessly aggravate the acknowledged evil of slavery, but these anti-manumission laws tend to its perpetuity ; and obstruct the very best and most unobjectionable means of its progressive termination. Till the false and fatal principle that the increase of the free coloured class is an evil, shall be renounced, and its reverse adopted as a universal maxim of colonial jurisprudence, the corner-stone of that wise and beneficent system on which the British government and parliament now stands pledged to act will not be securely laid.\*

## SECTION IX.

### ENFRANCHISEMENT BY PUBLIC AUTHORITY.

The other general source of enfranchisement which I distinguished, emancipation of slaves by the sovereign power, for meritorious services to the state, was very common in Greece, in Rome, and other ancient nations. If a slave was instrumental in the discovery or suppression of a public crime, or distinguished himself by fidelity in civil convulsions, freedom was the rich reward.

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\* I must avoid digressions as much as possible; but in this place I ought to remark, that the false principle here condemned has not only been assumed by the assemblies, but, I fear, tacitly admitted by some acts of his Majesty's government. This false principle is the only ground that I can imagine, for omitting any where that part of the Order in Council for registering the slaves in Trinidad, which entitles unregistered negroes and mulattoes to freedom ; a departure from the plan, in a point essential to its principle, and still more to its effectual execution. This omission would alone suffice to frustrate the whole effect of the register laws. (See the review of these laws in a Report of the African Institution, to which I have before referred.)

The same benefit, for the most part, was attached to military service, whenever such an emergency arose as induced the government to arm any portion of the slaves.

The reasons, no doubt, partly were, that their courage was likely to be animated, and their loyalty assured, by such liberality. But there were also more generous motives. "It was thought unreasonable that such as hazarded their lives in defence of their country's liberty, should themselves groan under the heavy yoke of slavery; and be deprived of even the smallest part of that blessing, which was, in a great measure, owing to their loyalty and courage." \*

When the Spartans were endangered by the Theban or Arcadian confederacy, they made proclamation, that able-bodied Helots, who would take arms and faithfully exert themselves in the defence of their country, should be rewarded with freedom; and more than 6000 of them were accordingly enrolled and enfranchised. †

In Rome, no slave could lawfully be enrolled or enlist himself as a soldier. Enfranchisement, therefore, was a necessary previous condition to lawful military service; and it was found necessary to restrain, by capital punishment, men of the servile class from enlisting themselves in the army under pretence of their being free, in order in that mode fraudulently to obtain their liberty. ‡

It would appear, even, that the main reason why enrolment on the census amounted to full manumission was, that it gave to the party the right, and subjected him to the obligation, of serving as a soldier. This privilege and duty, formed, as it were, the test of the free condition; so that a slave, if put on the census, unless he refused to be enrolled, and take the military oath when called upon, was for ever free; such a refusal, on the other hand, by a free person, reduced him to the con-

\* Archbishop Potter's Grecian Antiquities, vol. i. cap. 10.

† Mitford's Hist. of Greece, vol. vi. cap. 27. sect. 3.

‡ The offence must have been common enough to require such severity; for even the good Emperor Trajan refused to admit a merciful legal distinction upon that law, in favour of two men convicted upon it before Pliny the pro-consul, when he was consulted by that magistrate. He decided by his rescript, that if the men had willingly enlisted, they should suffer. Plin. Epist. lib. 10. epist. 38. and 39.

dition of a slave; or rather, as Cicero puts it, induced a presumption that he was not actually free.\*

When, after the fatal battle of Cannæ, the Romans found a scarcity of freemen to recruit their armies, the new expedient was resorted to of enrolling their slaves as such. Eight thousand of the ablest-bodied men of that class were selected, and were, without enfranchisement, armed and sent to the field, where they performed the most faithful and signal services; more especially at the battle of Beneventum, where the pro-consul, Sempronius Gracchus, obtained the victory by their ardent bravery alone; and as the just and promised reward for it, he afterwards, by authority of the senate, gave them their freedom. †

It is worthy of remark, that in this first deviation from the general practice, the slaves were not enrolled by compulsion, though their masters concurred in the innovation, and afterwards received their value from the public treasury. The senate, deeming it unjust to compel them to fight for the defence of Roman liberty, without first enabling them by enfranchisement to partake of its benefits, ascertained by individual applications to the men, their willingness to serve, before they were enlisted; and they bore the distinguishing name of *Volones*, or Volunteers, to exclude the notion of military duties having been forcibly imposed upon them without a release from slavery.

There was certainly much liberality in this, at a time of such extreme pressure, when freemen were not only compelled to serve as usual, but the ordinary exemptions of non-age and superannuation were in their case disregarded. ‡

\* *Jam populus cum eum vendidit qui miles factus non est, non admitt libertatem; sed judicat non esse eum liberum, qui ut liber sit adire periculum noluit: cum autem incensum vendit, hoc judicat, cum is qui in servitate justa fuerit censu liberetur, eum qui cum liber esset censeri noluerit ipsum sibi libertatem abjudicasse.* (Cic. Orat. pro Cæcina.)

† The account which Livy gives of the conduct of these troops is very particular, curious, and interesting; and might furnish an instructive lesson to those who have formed inadequate notions of the miseries of private bondage, and the blessing of enfranchisement. (Lib. 24. cap. 14, 15, 16.)

‡ It seems probable that the reason for not enfranchising these slaves prior to their enrolment, was the difficulty of then immediately paying their

There has been no opportunity of comparing, in this point of military service by slaves, the feelings of our colonial assemblies with those of Pagan governments, till our own extraordinary times. The expedient of arming negro slaves, for the defence of our West India colonies, would have been regarded as too dangerous and desperate to be adopted or proposed, on any emergency that had ever arisen there before the late revolutionary wars with France. Certain conquest by a hostile European power would have been deemed a less evil by far than the calling forth such a resource. Negroes, therefore, were never taken from slavery to bear arms; though the free coloured people have long formed the chief strength of the colonial militia.

But when we had to deal with an enemy who did not scruple to use black troops in the Antilles, for the purposes of offensive war, and who, by the general enfranchisement of the slaves in his colonies, was able to employ such formidable means of annoyance to any extent that his maritime opportunities might permit, the assemblies felt it necessary to depart widely from their former maxims.

Here the feelings of Christian and English slave masters were brought into comparison with those of Pagan antiquity; and the comparison results as usual much to the disadvantage of the former. The assemblies, in calling to their aid that wretched order of men whom they have so grossly degraded and oppressed, did not think it necessary, like the Spartans with their Helots, or the Romans with their domestic slaves, to make the service a matter of choice by the negroes; much less to reward them with freedom. They found a shorter and cheaper course. Their expedient was to treat with the masters, or make compulsory draughts from the plantations; and when the important service was performed, to restore the sur-

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value to the master; for it appears that the masters of those who were enfranchised, after the battle of Beneventum, dispensed with such payment till the end of the war, on account of the exhausted state of the treasury; and the senate, about the same time, declined to redeem the Roman citizens prisoners to Hannibal, partly on account of the great pecuniary distress then felt by the state. (Liv. lib. 23. and 24.)

vivors of their sable defenders to the gang, to work again under the whip; paying the private owners the value of the killed and wounded.\*

These black corps acted every where unexceptionably well; and materially contributed to the security of several of our islands. The invasions which they were immediately destined to repel did not take place; but there is reason to believe, that Victor Hugues would have attempted a *coup-de-main* at St. Christopher, and other colonies, if he had not been aware of this defensive expedient, of which he well knew the force; for the dreadful ravages of the yellow fever, and the fatal war in St. Domingo, had together so far drained our numerous windward and leeward islands of European garrisons, as to leave them in that respect quite defenceless; and the blockade of Guadaloupe was found impotent to prevent the entry or departare of the numerous vessels which that enterprising French governor possessed.

Accordingly, after the peace of Amiens, it was felt and acknowledged by the assemblies, that their black troops had probably saved them from conquest, and from a revolution of the most terrible kind. What was their reward? In St. Christopher, they were thanked by the assembly for their good conduct, and complimented with the property of their uniforms; but they were sent back to the plantations, and to the discipline of the cart-whip for life; and they soon after, as we

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\* See an act of Grenada of 1795, as a fair sample of such colonial liberality and justice.

After providing for the enrolment of as many slaves as would increase the number already enrolled for military service to 500, and for the valuation of them between the master and the public, it enacts that "the owners of all such slaves shall be entitled to receive from the public treasury of this island, the value of every slave employed in the public service, *who shall not be restored unhurt to his owner*, unless such slave shall voluntarily desert to the enemy;" and "that the *owner* of every slave enlisted and enrolled, shall be entitled to claim from the public, hire at the rate of *two shillings a day* for each slave, during the time such slave shall continue enlisted and enrolled, &c." (Act of Grenada, No. 75, in Mr. Smith's edition.)

This black soldiery served most faithfully, and probably saved the island from revolution, as well as conquest; in return for which, the promised rewards were faithfully paid, — *to their masters*.

have seen, had the door of voluntary enfranchisement by their masters effectually barred against them, by law.

The colony of Demerara went, it is said, still further; giving as a reward the benefit of *transportation*. I do not vouch for the truth of the statement; but it was reported that the colony generously presented to its British governor, for his private benefit, when he departed to another part of the West Indies, all the negroes which had been trained to arms. If so, of course they lost their wives and children, for saving, perhaps, those of their masters.

What, if any thing, was done by way of reward in other colonies where the same new expedient had been resorted to, I am not particularly informed; but I believe, that not a single black soldier, raised by the assemblies, received that benefit of enfranchisement which almost universally belonged to military character when imparted to the less unfortunate slaves of ancient Pagan nations. If I am mistaken, the fact can be easily shown, by reference to the act, or other public authority, under which they were purchased and manumitted.

Our colonies, however, may quote one modern precedent, with which I admit their treatment of their black protectors may be compared to their advantage.

In St. Domingo, during the civil war between the free coloured people and the whites, and prior to the general insurrection of the slaves, a body of the latter, armed by their own masters of the mulatto party, had performed most faithful and important services; and had been very useful to the common cause of both parties, when they were mutually annoyed by partial insurrections of the slaves in the south, reducing their unruly brethren to submission, or chasing them into the mountainous country. They were called, for their exemplary fidelity and courage, the *black Swiss*; and freedom was from the first their promised reward. Yet, upon the short-lived *agreement* or *concordat* between the whites of Port-au-Prince on the one side, and the mulattoes, to whom these Swiss belonged, on the other, it was a shocking part of the compact, stipulated by the whites, and to which the mulattoes, after some reluctance, had the baseness to agree, that the Swiss negroes should by surprise and violence be disarmed, and sent away from the island, to avoid the danger of leaving

them in freedom there with their acquired military skill and experience.\*

It is due to the British government to say, that it has not, in this instance, so far adopted the illiberal feelings of the colonial authorities, as to enlist negroes in the military service of the state, without releasing them from the yoke of private bondage. In raising for the first time regular black corps, or West India regiments, as they are called, for the defence of our islands during the late wars with France, the men were purchased from their masters; but it was understood, if not expressly ordained or declared, that their servile condition was converted by their enlistment into civil liberty; subject only to the same military regimen as the mutiny acts have equally imposed on the British soldier: and in consequence, when some of those corps were disbanded at the peace, the men were not sold, or replaced in a state of slavery, but left at liberty to provide as they thought fit for their own subsistence. I am sorry to add, that there is nevertheless great reason to fear in respect of such of them as were disbanded in the West Indies, that many of them have been reduced to slavery again, having fallen victims to those oppressive police laws to which I have adverted. They have been taken up and sent to pri-

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\* *Rapport sur les Troubles de Saint Domingue*, tome iii. p. 64, &c.

It appears, from the same report, and from public documents therein cited, that these unfortunate men, not being received at Jamaica, were brought back and confined in chains on ship-board at Cape Nichola Mole, till a party of white ruffians went on board and butchered sixty of them; and of the rest the greater part miserably perished in their close confinement; so that only eighteen out of two hundred which had been embarked on board a single ship, remained to be delivered by the French commissioners on their arrival in 1793.

My reason for here selecting this atrocity from the long and horrible catalogue of crimes, many of them still more diabolical, which are furnished by the historians of the revolutions in St. Domingo, is, that its sole motive was hostility to freedom, the reward of military service. The deadly feud of the mulattoes and whites had no share in it; for the *black Swiss* corps was sacrificed as the first-fruits of their solemn, though short-lived, reconciliation; and avowedly on a cold-blooded principle of policy. I mean as far as relates to the original act of perfidy, from which the rest naturally followed; though the subsequent massacre was the act of the *white* masters alone.

son as runaway slaves, and have been sold, I fear, in many cases, upon the presumption of law arising from their colour, because they could not, within the short time limited by those laws, make proof of their freedom. This is not mere conjecture from the probability of such occurrences ; since it appears, as was before observed, from advertisements in the Colonial Gazettes, that negroes taken up on suspicion of being runaways, have asserted themselves to have belonged to, and been discharged from, a specified West Indian regiment, and that they were nevertheless to be sold at a given day unless they should be sooner claimed by a private owner, or make proof that they were free. As such assertions might easily have been brought to the test of official enquiry by the local government, what excuse can be offered for adhering in these cases to the rule of these barbarous laws, and selling the unfortunate men because they had not the means of sustaining in every island they might visit, and in their helpless situation as prisoners, the burden of proof most unjustly cast upon them ?

In other respects the treatment of these black corps furnishes, I lament to say, a strong illustration of the baneful effects of colonial prejudices, and of colonial influence in our national councils. Never, perhaps, did any troops more fully or more faithfully accomplish the important purposes for which they were raised. Their conduct was extolled by almost every General under whom they were engaged in active service ; and in garrison their usefulness was found still greater than in the field. They rescued our European troops from duties peculiarly painful and pernicious to them in the torrid zone ; and *fatigue parties*, as they were emphatically called, were exclusively composed of drafts from the black corps, whenever they were at hand. But they would have been inestimable if they had only served to diminish the number of our brave soldiers transported to, and stationed in, that fatal climate. It would, I doubt not, be an estimate below the truth to say that every black soldier employed in the West Indies saves, in five years, the loss of two European lives at least to the British army.

There was another salutary tendency of this new military system in the colonies, of which every reader that admits

the general principles maintained in this work will feel the value. It could not fail to diminish the cruel popular contempt in which this unfortunate part of the human species is held there. But this was precisely the reason why colonial prejudices strongly revolted against it; and why the government of the mother-country was assailed with false grounds of alarm, and with all those means of private solicitation and influence which the colonial agents, committees, and private proprietors, are accustomed to employ too successfully in the departments of state, until they succeeded in getting a large part of the black corps disbanded. As a further concession to their affected, or idle terrors, some of the regiments were transported to Africa, to be disbanded there; an ungrateful and cruel return for their faithful services; because most of them probably left behind wives and children and other near connections, from whom they were thus separated for ever.

The main pretence for this dislike to the black troops was, that they might in cases of insurrection probably take part with the slaves: but neither reason nor experience give any countenance to such a fear. The principles which guard military fidelity in regular armies, are found to be stronger than the sympathies of a common origin, class, or complexion; else what would long since have been the fate of our Indian empire; or how could it ever have been raised? The black regiments still in service in the West Indies certainly have had their fidelity put to the proof by such treatment of their late comrades; yet what has been their conduct? In the insurrection at Barbadoes, and the recent one at Demerara, they were the troops put in advance, and by whose fire the insurgents were dispersed.\* It would be absurd, indeed, to speak of this in any other view as military merit; for it was, to be sure, an easy service to fire upon and kill multitudes of

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\* In these and other cases in which the black corps have been employed, the English public for the most part is not apprised of their services. The term "*West India regiments*" is not generally understood in this country to mean corps in which all the privates are negroes; and it would be but fair, therefore, in commendatory official accounts of their services, to describe them as black troops.

unarmed men, who offered no resistance \* ; but their feelings, whether as soldiers or Africans, were not on that account the less likely to revolt at such employment, if their discipline and sense of military duty had not insured obedience.

It may be inferred from the same facts, and many others, that the jealousy which the white colonists profess of such defenders, is in great measure a mere cloak for their proud contempt and antipathy towards the African race. They have long professed in every colony the same apprehension of the free coloured people ; yet they compel them all to serve in the militia ; and in the hour of danger, these, like the regular black corps, are so far from being thought disaffected, that in the most delicate and critical conjunctures they are always the first to be employed.

These remarks would naturally lead me to what was meant to form a sequel to this part of my work.

To the law of slavery, I meant to add some account of the legal condition of that important class, the free blacks and mulattoes, and such other descendants of negroes as are comprised under the general description of "free people of colour." It is a subject of great importance, especially at the present juncture, and has a close relation to the main object of this work ; for the state of this class in point of law in most of our colonies, as well as its practical degradation in all, would clearly illustrate the true causes of much that aggravates the slavery of the West Indies, and opposes its effectual reformation by any interior legislature. Here, the selfish views of white oligarchs, and the absurd contempt for a black or yellow skin, are not disguised, as in the case of slavery, by any pretence of necessity arising from the nature of the harsh system itself, or of difficulty or danger in the work of reformation ; but the plainest principles of policy and justice are wantonly violated, merely that the profitable privileges and pre-eminence of the whites may not be surrendered or abridged.

If the advocates of the slaves were really actuated by such wicked and insane motives as the planters preposterously

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\* All accounts agree that at Demerara at least two hundred of the insurgents, or the unarmed rabble so called, were killed on the spot, while not a man was killed, or I think wounded, on the other side.

impute to them ; if they desired, not the peaceable and benevolent relief of those unfortunate fellow-beings, but insurrections and revolutions in the colonies, the oppression of the free coloured people is an abuse which they would be far from wishing to correct. The disaffection and revolt of this powerful class, far outnumbering the whites, as they do in almost every island, and trained as all their adult males are to the use of arms, would be the most effectual means of revolution that could possibly be employed ; and on the other hand, while the free coloured population lends its faithful support to the government, it may safely be affirmed that no efforts of the slaves to throw off the yoke under which they groan can possibly succeed. The case of St. Domingo, when fairly stated, furnishes strong demonstration of these truths. If the free coloured people had not been persecuted to a degree beyond endurance, the insurrection of the slaves would have been prevented, or easily suppressed ; and had not that persecution been renewed, with the most barbarous excesses, under Leclerc and Rochambeau, the island might not have been ultimately lost to France. In these views and others, the friends of the slaves prove themselves also the friends of peace, when they advocate, as they have always been ready to do, measures of liberal concession and conciliation towards this powerful middle class ; and the white colonists in opposing such measures, show an infatuated disregard to their own security, not less striking than their blind and long hostility to their own interests, in their fatal protraction of the slave trade.

But though, for these reasons, an exposure of the legal oppressions under which the free coloured people in the colonies labour might possibly be useful, and is not irrelevant to an account of that slavery from which they have been imperfectly released ; it would increase materially the bulk of a volume, already too large, and much longer delay its publication.

I also designed and promised to add a chapter to this division of my work, on those recent ostensible reformations of slavery, called the Meliorating Acts ; but my intended strictures on them have been partly anticipated, under the different titles to which many of their provisions relate ; and I perceive, on fuller consideration, that a more comprehensive

review of them here would be premature; because, until I have submitted to the reader that practical account of slavery, which is to form the second division of this work, a considerable part of the provisions of those acts, and of my remarks upon them, could not well be understood: those regulations, for instance, which relate to the ordinary economy and discipline of a sugar estate. I find it most convenient, therefore, or rather necessary, to reserve what remains of that subject for the conclusion of my work.

I am the better reconciled to this departure from my first arrangement, because it is said that some of the assemblies are framing, and likely soon to transmit for the royal assent, new acts, on which they have been deliberating, in compliance with the sense of parliament and his Majesty's government, for the improvement of their slave codes. May they prove of a different character from most of those which I have had occasion to notice! But whether satisfactory and efficient, or the reverse, they are likely to alter materially my field of observation; and might make any further present remarks, in a great degree, out of place or superfluous.

Meantime, it will be doing no injustice to the colonies to defer the notice of such specious provisions of those meliorating acts already presented to parliament, as have not naturally fallen under review in the preceding sheets; since their inefficiency, and the utter neglect of them in practice, has, I trust, been sufficiently shown to satisfy the reader as to their general character and effect.\* Indeed, while the assemblies adhere to the absolute rejection of the testimony of slaves, and by restoring them to the power of a convicted master, make it fatal to them to complain, even when free witnesses can be found to support them; it is manifest that all protecting laws must be practically useless. The rule of evidence alone, we have seen, is admitted by colonial legislators themselves, and by their most zealous friends, to produce this effect; and therefore, while demonstrating on other grounds in my progress, the futility of particular enactments, I have felt

\* See pages 99, 100, 169, 169, 170, &c. Many other authorities might be cited, e. g. the governor of Grenada confessed the boasted meliorating act of that island to have been "*a dead letter.*" (Papers of 12th July, 1815, p. 147.)

some doubt whether I was not needlessly trespassing on the time and patience of my readers. \*

\* Some apology, however, may be thought proper for submitting this part of my work to the public, before my proposed plan is completed, by an account of the state of slavery in its practical character. What the condition of the negro slaves on the plantations is in point of actual treatment, though incidentally noticed in some particulars, is a subject that for the most part yet remains to be opened; and is certainly not less important than any of those which I have already discussed. But there is this difference, that while many accounts of the practical case are already before the public, a particular and systematical view of the slave codes, is a *desideratum* hitherto unsupplied; a consideration that might alone, perhaps, suffice to justify my publishing this first division of my work, without the great loss of time that would be incurred if I should wait for the completion of the other; especially as it is understood that applications for the amendment of many of the slave laws will soon come under the consideration of parliament. Besides, it is my earnest wish to engage the attention of the English lawyer, who would not feel the same professional interest in the intended sequel of my work. It shall nevertheless appear in a second volume, unless speedy and substantial reformation of the state shall happily supersede the necessity of these discussions, before my time and strength enable me, compatibly with other duties, to redeem this pledge, in an adequate and satisfactory way.

Meantime, if any reader desires to be better informed what are the practical fruits of such a shocking institution, as is here developed, I would refer him to a late work, called *Negro Slavery, &c.* published by Hatchard and Son. I would also wish to refer him to a publication of the late Reverend James Ramsay, on the Treatment and Conversion of Negro Slaves; but this work I fear is become too scarce to be easily procured, unless from the libraries of gentlemen, who were the early advocates and promoters of the abolition. Nor would I wish that they should resort for information solely to such writers as were inimical to the system they described, and whose object was to procure its reformation by law. On the contrary, there is no account of the slavery of the sugar colonies, that I would so much desire to put into the hands of intelligent and reflecting men, as a publication often cited in this work, *Practical Rules for the Management and Medical Treatment of Negro Slaves in the Sugar Colonies*, by the late Doctor Collins of Saint Vincent.

This work also, I fear, cannot now easily be obtained from the booksellers. If West India proprietors were as intent on promoting the preservation and well-being of their slaves as they ought and profess to be, the book would not have been suffered to be out of print; but successive editions would have been demanded, that a copy of it might be put into the hands of every West India attorney, manager, and overseer; for it is a treasury of exact information, and valuable advice, solely designed for their and the owners' assistance in the most important part of their functions, now rendered more

Here, therefore, I shall close the first part of my work, the Delineation of Colonial Slavery, as it exists in point of Law.

important still than when the work was published, by the abolition of the slave trade, namely, the watching over and improving the treatment of the plantation slaves, in all points that affect their health, their longevity, and native increase.

Dr. Collins possessed in an extraordinary degree every possible qualification for such a work. He was a most able and experienced planter, who had resided, I think, above twenty years in the West Indies; and had raised an ample fortune, by his skill and assiduity in the management of his own sugar estates. He was also a very eminent medical practitioner; and had of course in that character the best opportunities of knowing what the ordinary treatment of slaves was on the estates of other planters, as well as on his own. He was moreover held in very general esteem as a gentleman, among the West Indian proprietors and merchants in England, and had made himself peculiarly acceptable to them, as an able and zealous apologist of the slave trade; nor did he quite depart from the character of their partizan in publishing the work referred to; for his remarks on such practices as he was obliged to disapprove, for the sake of suggesting the proper means of their correction, were not the willing reproofs of an enemy, but the tender and extenuating suggestions of a friend. He was far from meaning to increase the public odium of a system, in the administration of which he had been so deeply and successfully engaged.

Why then should Doctor Collins's Essay be neglected by the conductors and defenders of that system; and cited by its opponents? For this plain reason; because from the object of the work the author was under the necessity of noticing, however tenderly, those *ordinary* abuses in the exercise of the master's power, the existence of which the colonial party in a controversy before the English public finds it most convenient to deny. He could not, for instance, give the necessary cautions to managers against the partialities, and severities, and indiscriminate coercions of the drivers, and point out their cruel and destructive effects, without recognizing the practice of driving, and that the formidable discipline of the cart-whip over slaves of both sexes when working in the field, is committed to the discretionary use of those servile and degraded agents\*; whereas some of the champions of the system here, had ventured to deny the existence of the driving method altogether, as the least scrupulous of them still have the effrontery to do; affirming at least that the tremendous whip with which the drivers are armed, is a mere ensign of office, never called into use. To be sure, Doctor Collins's advice to his brother planters must in that case have been as preposterous, as if a man should address the parochial clergy in London, in respect of the summer procession of the charity children to St. Paul's, and gravely exhort them to controul the parish beadle in the cruel and partial use of their gilded poles, lest they should

\* See pages 53 and 54. *supra*, and notes therein.

I have reviewed this most abject and pitiable state of man as I proposed, in all its principal relations, so far as express legislation, or customs received in the colonies as law, have determined its nature, and its incidents, its origin, and dissolution.

The imposition of slavery exclusively, on a particular race of foreign and uncivilised men, disgusting in their manners and persons, and low, from cruel neglect, in the intellectual scale, was the peculiarity of this law first noticed; and it obviously prepared for its unfortunate subjects a lot pre-eminently wretched, by diminishing the natural sympathies of the master, and of all the superior class, by extending to the bodily frame, and to the blood, the infamy of the servile condition; and making the very colour of the skin a badge of ineffable disgrace. But it was a still more fatal peculiarity of their destiny in the British colonies, to be abandoned not only to the private, but to the civil government of their masters; and to have no other lawgivers, than men deeply tinctured with local prejudices hostile to their race; men to whom their oppression also was profit, and their legal protection restraint.

Nor was the evil tendency of these causes counteracted by such ordinary political feelings, as have elsewhere sometimes lightened, or dissolved the chains of slavery; the fear of servile insurrections, or regard to the welfare of the state. The local governments, leaning on a powerful nation for defence, were in little danger from such convulsions as extreme oppression might excite; and felt no necessity of conciliating

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indiscriminately and unfairly urge on the poor boys and girls, knocking down some, and partially sparing others. In short, Doctor Collins, in giving sincere practical advice, was obliged to apply it to the *true case*, which could not suit the views of those who set up or maintain a *false one*.

For my part, though I am far from admitting that the practice of slavery is in general no worse than that Essay would lead the European reader to suppose it to be, I should be well content to rest the case of the plantation slaves, as between them and their masters, on the facts either expressly admitted in that work, or clearly deducible from it by every reasoning mind. I therefore regret that copies of it cannot be very easily obtained; and hope that some of those who share my opinions and feelings in this great cause will soon supply the defect, which I believe might now be done, without trespassing on any copyright, by publishing a new edition.

the most numerous class in their small communities, in order to strengthen themselves against their enemies, whether foreign or domestic. In war and in peace, the navy and army of Great Britain were their ever ready resource; and gave them full assurance that the worst effects of resistance among their slaves would be a little temporary mischief: while most culpably, and most calamitously for the unfortunate negroes, the mother-country took no concern in the moral character of those arbitrary laws which were framed under her authority, and upheld solely by her power. She was ever ready when called upon to employ her arms on the side of the masters, and to shed copiously the blood of the resisting slaves; but without any enquiry whatever into the merits of the quarrel. We have seen that until after the first applications to parliament for the abolition of the slave trade, the servile codes of the colonies, barbarous and unprecedented as they were, remained utterly unknown to the statesmen and legislators of England. They then began for the first time to enquire what those colonial institutions were, to support and enforce which, they had at different periods employed the British arms in the effusion of human blood.

Under such circumstances, it might have well been anticipated, that the slavery of our colonies would be found pre-eminently harsh; and the reader has accordingly found it to be a system, uniting in itself every species of oppression that has elsewhere existed under the sun; and with many aggravations as much beyond example as excuse.

In his relation to the master, the slave is degraded to the level of brutal and inanimate nature. He is mere property; and subjected as such to all the evils that the various rights annexed to property can entail, on a sensitive and rational being. He is removed from his home and native settlement, sold and exiled, bereft of his wife and children, and of all that makes existence dear to him, whenever the owner's choice, or that of his unsatisfied creditors, may so ordain. He is demised, mortgaged, entailed, and in other modes subjected to the absolute government of a master, who has often but a small or temporary interest in his preservation and welfare; and who still oftener is unable to provide for his support. His labours, his subsistence, his discipline, and

his punishments, are all at the arbitrary discretion of his immediate rulers, who are for the most part only the mercenary delegates of an owner, resident in a distant land. But to these are added, subordinate delegates of fearful name, whose powers are awfully important, and susceptible of no effectual control. To the drivers is committed the distribution and exaction of the common labours of the field, their apportionment among the old and the young, the strong, and the feeble, the males, and the females; and to these lowest agents even, though negro slaves, unenlightened and unsoftened by religion, immoral and corrupt, bereft, by their degradation, of all liberal feelings, and hardened like public executioners by the habitual infliction of tortures penally imposed, the law permits the master to delegate his awful powers. To them, accordingly, he does delegate that which is practically the most formidable and pernicious of them all, the use of the driving whip.

Such as we have seen are the outlines of the private relation, as recognized and inforced by law.

In regard to the whole white population, except the owner and his agents, the negro slave stands as I have shown, in a predicament still more peculiar. He has no legal rights in his relations to them; or what is in effect the same, no remedies for wrongs received from them. His person, and such property as he is allowed by the master to possess, are virtually at their mercy. He can neither prosecute for, nor find evidence of his wrongs; nor exercise even, without subjecting himself to capital punishment, the right of self-defence. We have seen that those recent laws which affect to protect him in some degree against free strangers, and even against the master himself, are, with an unimportant exception or two, incapable of execution, and absolutely useless.

To the State, the slave also has his relations; for this chattel in the master's hands, is recognized by the penal code, as a rational and deeply responsible being. I have, therefore, reviewed this relation also; and stated the condition of the colonial slaves in their character of subjects, or members of civil society. And what is the result? Of all the ordinary benefits of civil life, the slave would not have been more completely destitute in an African desert, than in a British colony.

Not one of those benefits can be said to be effectually imparted to him, while many are totally and expressly denied. Even education, intellectual, moral, and religious, has been shamefully withheld. But to his crimes, on the other hand, the colonial lawgivers have by no means been inattentive. These have been punished with a severity unknown to the laws of the mother-country; and equally unknown in the same colonies when freemen are the delinquents. Numberless petty offences and trespasses, for which the latter are liable only to be fined, or to pay damages in a civil action, have been raised into felonies, when committed by a slave. Desertion, and other domestic offences, which are breaches of duty to the master alone, have been treated as atrocious crimes against the State, and visited with mutilations or death. Nay, these much injured beings have been capitally punished for acts which the laws themselves have recognized as the direct and necessary fruits of the master's oppression; and for which, he himself, notwithstanding, was made liable to no legal animadversion at all. Barbarous executions, shocking to nature, have been sanctioned by laws but very lately repealed or disused; and the dreadful punishment of the workhouse slave-chain has been recently devised, and is still inflicted, even during the whole life of the offending slave; and often for acts, in their nature innocent, and breaches alone of the harsh duties arising from his servile condition.

Nor is the poor slave less harshly distinguished in the judicial cognizance of his crimes. Modes of trial and conviction have been appointed for him, highly dangerous to the innocent; as well as inconsistent with the lenity and humane circumspection of English law,—qualities, which in the prosecution of free men in the same colonies, have not only been retained, but increased.

To finish this odious summary, the state, thus beyond example severe and cruel, is more loosely and indefensibly imposed, and with far more difficulty dissolved, than the bonds of slavery ever were in any other age or region. The presumption of law, placed every where else on the side of freedom, here universally weighs against it; while a despotic exclusion of all servile testimony makes the conflict of truth, with that harsh presumption, in most cases difficult or hope-

less; and, lastly, the colonial legislatures, instead of encouraging voluntary manumissions, have laid restraints, by enormous taxes and other means, on that beneficent power of the master.

Such is the state in point of law, in which above seven hundred thousand men, women, and children, born, or living under the dominion of the British crown, are still held, by no better right than such as may be derived from the African slave trade; a trade solemnly proclaimed at our own instance by the European powers assembled in Congress, to be repugnant to "the *principles of universal morals*," and a scourge which had long "*desolated Africa, degraded Europe, and afflicted humanity.*" Such, nevertheless, is the state in which we retain the hapless victims of that guilty and opprobrious commerce; and such is their destined lot for life, and that of their innocent offspring.

But I invoke on their behalf the wisdom, and justice of parliament, and the voice of a generous people.

## APPENDIX, No. I.

*Referred to in p. 45.*

THE Council and Assembly of St. Christopher, in their answers to the enquiries of the Privy Council in 1788, stated as follows: "*The owner possesses a right of corporeal punishment and confinement. Immoderate punishment has been determined by the Court of King's Bench and Common Pleas to be illegal, and so has punishment not adapted to the object.*" They referred to the St. Christopher Appendix A. Now this Appendix A. contains four cases, all arising within three years of the time of the Privy Council enquiry, and one of them coeval with it; and the author has stronger grounds than the absence of any other precedents, though that would be satisfactory enough, for remarking that the Council and Assembly of St. Christopher could find no other cases at all for their purpose upon their records. Let us enquire, therefore, how far these cases support the strong assertion above cited; and the reiteration of it in answer to another query, in which the Council and Assembly again affirm that "*wanton correction by the master would be taken cognizance of, and punished by the courts of law.*" \*

The last of these cases was an arraignment upon the coroner's inquest for manslaughter, on which I abstain from any remarks; because it can show at most only that killing a slave by a person who was not the master, was held by the court at that period to be felony, which I admit, though a new rule in point of practice had not at St. Christopher, as in other islands, been opposed by any positive law.

Two of the other cases, are those of the convictions of two masters in 1785, for cutting off the ears of their negroes. This species of cruelty, and other dismemberments of slaves, having been frequently perpetrated by some barbarous masters, the legislature of this island in 1783 had passed an act prohibiting such offences under the penalty of 500*l.* currency, then about 300*l.* sterling, and six months' imprisonment. The act was certainly creditable to that island, and was, I believe, the first law in the British West Indies that had proceeded so far in the protection of slaves against their masters. It was therefore brought forward as a proof of colonial humanity, and exhibited to the Privy Council, in whose report it has a conspicuous place†, though it was in its stile and enactments plainly inconsistent with

\* Same Query, No. III.

† See it printed as an Appendix to the above-cited Answers, Exhibit B.

the answers I have cited, and still more with another assertion of the Council and Assembly in the same report, namely, that "*maiming a slave by the owner was equally criminal by their laws with maiming a white person;*" for if so most of the cruelties which this act prohibits and punishes as misdemeanours were before felonious.

In consequence of this act, two slave-masters, who had notoriously punished, the one a male, and the other a female negro, by cutting off their ears, were prosecuted, and convicted. They were by no means the only known offenders in the same kind, and until the passing the act, no one thought it possible to bring them to any punishment by law. The author, however, who was present at both the trials, is bound in candor to admit, that the court really proceeded on a principle of law recognized by it independent of the act of the preceding year; it appearing on the evidence, that the crimes took place prior to the passing that act. Indeed the counsel for the crown, apprehending this to be the fact, had preferred two indictments, one on the act, and the other as for an offence at common law; on the latter of which only the parties were convicted.

This principle of law, then for the first time contended for by the counsel for the crown, and after much argument sanctioned by the court, was that which has been already hinted, and which I offer as some explanation of the general mis-statements in question, viz. that *unusual and shocking acts of cruelty like these, which were not only contra bonos mores, and of evil example, but a kind of nuisance in the eye of the public, from the scandalous and indecent appearance of the mutilated victims*, were, on that account, and not on the notion of any civil rights in the sufferer, indictable upon the principles of the common law of England; which, when unaltered by statute or act of assembly, is in force in the colonies. Whether the principle was legal and applicable, I will not determine; but it was maintained by the counsel, and taken as law by the court, that unusual and shocking cruelty, even to brute animals, if of a nature offensive to the public eye, was indictable as a misdemeanour in England.

The precedents then established by the court were admitted to be perfectly new; and to that should be ascribed the lenity of the punishments inflicted; viz. a fine of 100*l.* currency in one of the cases, and 50*l.* in the other.

The remaining case will deserve more particular notice. It will, I conceive, when fairly stated, furnish to persons unacquainted with the slave colonies, a very instructive lesson.

In the year 1786, Mr. H. was indicted for "inhumanly, immoderately, wantonly, and cruelly, and without provocation, &c. gagging, beating, wounding, and bruising, a negro child called Billy, of the age of six years, the property of him the said H., to the evil example, &c." (See Appendix A. before referred to.)

This indictment was brought to trial in the Court of King's Bench and Common Pleas, the supreme court of the island, into which it had been removed from the sessions by *certiorari*, at the instance of the prosecutor; and the jury found the following verdict: "We find the defendant guilty, subject to the opinion of the court, if immoderate correction of a slave by the master is a crime indictable."

The court gave judgment in the affirmative, and afterwards passed sentence on the defendant, which was, that he should pay a fine of 40s. *current money*.

Thus far the record, as produced by the Council and Assembly of the island, or their agents, before the Committee of the Privy Council.

It appears thereby, that the author of this work was a witness in the cause.—He was, what a professional man does not wish to be, both a witness and a counsel for the prosecution; and therefore may be presumed to be well acquainted with the case. He is also fortunately possessed of an authenticated copy of the record of all the legal proceedings relative to the transaction in question; part of which, it was not deemed expedient by the Council and Assembly, or their public agent, to produce before the Privy Council; and therefore he will, in this single instance, state facts not appearing from the testimony on the part of the colonies; but they are, let it be observed, facts only supplemental to, and explanatory of, the imperfect and garbled evidence on that side; the unfairness of which he is prepared to show by matter of record.

The defendant was a merchant, but one of no considerable eminence in the town of Basseterre, St. Christopher. His conduct in domestic life was known to be harsh, and his neighbours had been more than once disturbed by the cries of two little victims of his cruelty; his treatment of one of whom was the subject of this prosecution. To avoid that inconvenient effect of their sufferings, he cut out two portions of a small wooden hoop, which he forced into their mouths, and tied with strings behind their heads, in order to prevent any articulate cries during the merciless beatings he gave them.

One of these unfortunate infants was, as the record shows, a negro boy slave, of the age of six years; the other, for the cruel treatment of whom an indictment was also found, but, for reasons hereafter mentioned, not brought to trial, was a negro girl, also the property of this man, and a year, or perhaps two, years older than her brother.

Both were evidently mere infants, whose worst possible offences could not have excited vindictive emotions in any but a ferocious mind. The master, however, without any provocation that he thought it prudent to allege in his defence, had, after gagging them in the manner already described, beat them most inhumanly, as the marks in various parts of their bodies incontestably showed. Their cries, though inarticulate from the effects of the gagging, alarmed the neighbours; and at length a constable humanely entered the house, and, shocked with the appearance of the children, brought them before a magistrate.

The case, though such as seemed loudly to demand the interference of the police, was, as a matter of legal investigation, extremely difficult; for the man was the *master* of the victims, and the power of a master to punish, in any degree short of death or mutilation, had never been questioned before in that, or, as the author has the strongest reasons for believing, in any other West India island. The gentleman before whom, as a justice of peace, the children were brought, therefore called to his assistance two other magistrates. They were all lawyers by profession, and eminent as such; nor ought I to omit adding, that men of more liberality and intelligence were not to be found in the community. They

felt, however, great difficulties; and, as the event will show, not unnecessarily, in determining whether they could lawfully do any thing, either for the punishment of the master, or the protection of the children from further violence.

They did the author of these pages the honour to send for him, and request his opinion on the case. He owes them the justice, however, to say, that they wanted no persuasions to act as they eventually did; nor can he recollect whether it was his province to suggest, or only to confirm, an opinion, that the master's authority must be limited by the same bounds which the law of England had in general prescribed to the exercise of every private right, a due regard to public decency, and the good order of the community; and that it did not extend to such acts of wanton cruelty as were shocking, and of evil example in the eye of the public; a principle which, in cases of mutilation, had already, as we have seen, been admitted by a court of that island.

It was on the age of the little sufferers, and their consequent incapacity to provoke extreme exertions of the master's correcting power, that the worthy magistrates chiefly relied; and it was upon these circumstances alone that the author would have advised them to incur the risk of making a new precedent in so delicate a case. It was determined that H. should be prosecuted; and that in order to rescue the poor children from his vengeance, which was the principal object of interest in the feelings of the magistrates, as well as to preserve that most impressive evidence which arose from their personal appearance, they should be consigned to the care of the Deputy Provost Marshal, (the under sheriff and keeper of the prison of the island,) in order to be produced before the grand jury, and at the trial.

Meantime, two of the most eminent gentlemen of the faculty in the town were sent for to examine the children. Among other injuries, there was such a contusion in the shoulder of the little boy, that it was not till after exact examination that it could be pronounced by these gentlemen that the joint was not dislocated. The bruises about the head, and upper part of the body of each infant were numerous and shocking; and the wool was in some places stripped away from the scalp; and the edges of the hoop with which they had been gagged had, either from the tightness of the ligature, or their efforts to call out, cut into the cheeks on each side of their mouths.

Such were the appearances which the surgeons found, and deposed to afterwards on the trial. They gave it as their opinion, "that no instrument proper for the correction of a child could have produced such effects; but that the infants must have been beaten with a rope, or some other obtuse instrument of punishment."

The European reader will no doubt be ready to conclude that this cruel man, when apprehended and brought before the justices, must have been abashed and intimidated. So far to the contrary was the fact, that he assumed an air of indignation and defiance; challenging their authority to interfere between master and slave, and disdaining to offer any excuse for his conduct, though he freely admitted himself to be the author of the cruelties, the fruits of which we saw. Sorry I am to add, that some of the

most respectable inhabitants of the town, indignant like himself at so novel and dangerous an interference of the police, appeared on his behalf; and when bail was required for his appearance to answer an indictment, stood forward willingly as his sureties; but upon the magistrates proceeding to send the children, for safe and tender custody, to the charge of the Deputy Provost Marshal, that officer was menaced with legal consequences; and the magistrates, until they firmly asserted the respect due to their office, were also threatened by the defendant with prosecutions, for so dispossessing him of his property.

The officer, though a man of spirit, and one who strongly disapproved of the master's conduct, was so apprehensive of legal consequences, that it was necessary for one of the magistrates, and the author of this account, privately to engage to indemnify him, in order to induce him to take charge of the children.

Such was the case that was brought to trial in July, 1786, before a special jury of the island of St. Christopher. The facts appeared clearly in evidence as here stated. The author assisted as counsel one of the humane magistrates who instituted the prosecution; and hopes he may be permitted to say, that no pains were spared to place the case, in point of argument, on the strongest grounds; yet the only legal principle on which it was, or could, consistently with the known laws of the islands, be contended that the defendant was liable to a conviction, was, that which has been already explained. It was alleged, and the proposition, however questionable, was not disputed, that cruelty to brutes, if wanton, unusual in kind, and shocking to the feelings of the public, was indictable by the law of this country.

On the other side it was strongly maintained, that the master's authority was a sufficient answer to the prosecution in point of law. No attempt whatever was made to justify, or excuse the act, on any other ground. The jury, however, as respectable a one as the island afforded, after staying long out of court, at length brought in the verdict which has been already mentioned, and which is set forth in the Privy Council Report.

Here the grossest part of the suppression on the part of those who brought forward this case before the Privy Council and Parliament begins.

H., instead of being dishonoured by this verdict, was elevated into the character of a suffering patriot; the champion, and the martyr, of the sacred rights of slave-owners and masters. The horror due to his cruelty was lost in contemplation of the danger of the precedent established against him; or rather in public indignation against those who had instituted and supported the prosecution. To none of them could a private motive be imputed; for H. was a stranger to them all, as I believe, till his crime brought him to their acquaintance; yet they were covered with popular odium, for the part they had taken, and some of them were exposed to serious personal dangers.

But this was not all. H., borne up on the shoulders of popularity, was so far from fearing the sentence which hung over him, that he brought an action, in the same court, against the Deputy Provost Marshal, for having

received and detained from him his infant slaves, during the prosecution, in obedience to the warrant of the magistrates.

The children had been restored to him, cured of their wounds and bruises, and in far better condition than when they came from his house; and as they were too young to do any work, their maintenance was a clear benefit conferred upon him. Yet he laid his damages at 300*l.*; at least four times the value of these little slaves; and expected that a jury would give him even that enormous demand; for it had transpired, that the hated authors of the prosecution had entered into an honorary promise to indemnify the officer.

This action happily was brought against the D. P. Marshal alone; whereas an act of the island, similar to the statute 24 Geo. II. cap. 44. directs, that in all actions brought against any officer, for acts done in obedience to the warrant of a justice of peace, the justice shall be made a co-defendant.

However strange it may seem to the English reader, it was necessary for the officer to insist upon this act for his protection; and yet the defence had been useless, if some men had not happily been found on the jury, who refused to find contrary to the positive direction of the Insular Statute Book, as well as that of the judges. The latter, at first, ordered a nonsuit; but the plaintiff's counsel refused to suffer it, and insisted on the question going to the jury; to whom, therefore, it went, with a strong direction from the bench, founded on the act, and with all that could additionally be urged by the defendant's counsel, aided by the opinion of the court, upon the merits.

The jury was a special one, anxiously struck on the part of the defendant. Twelve men of more respectability could not have been found in the island; yet they staid out of court no less than *forty-eight hours*, and their foreman, at last, reported to the court, that they were equally divided in opinion, and could not agree on their verdict; and that they earnestly desired the parties would consent to discharge them; upon which it was agreed to withdraw a juror.

H. brought his action again to trial; and no wonder; for it was understood, that many of the former jury had stood out for large damages in his favour.—Accordingly it came on a second time before a new special jury; and they were, like the former, men of as much respectability as the little community could furnish; yet they refused, notwithstanding the express words of the act, and a clear direction from the bench, to find for the defendant.—Their verdict was for the plaintiff, but with only nominal damages; and was the result, as was understood, of a compromise between those gentlemen who wished to give vindictive damages on the one hand, and those who felt the obligation of law, or justice, to find for the defendant, on the other. Hereupon the court was moved for a new trial, which was granted; and as the finding was against the direction of the court, as well as against law, it was granted without payment of costs.

H., vain of his popularity, and pushed on by many exasperated slave owners, threatened again to bring his cause to a trial; but the controversy had bred so much party animosity in the island, and threatened so much further mischief, that some of the more respectable part of the community

took pains to influence that indignant patriot and his friends to desist from their plans of vengeance ; and at length succeeded.

After this explanation it will not excite surprise, that he was fined only forty shillings current money ; and that the other indictment, for cruelty to the girl, was not brought to trial.

I am far from blaming the Judges for their sentence ; though those who know no more of the case than can be learned from the Privy Council Report, must consider it as a very strange one, for such an offence as the cruel treatment of an infant of six years old. In truth, it was a sentence of mercy to the prosecutors, and to the little community whose peace was disturbed, rather than to the defendant.

And now, having stated these facts, which I am in a condition to verify, if disputed, I desire impartial and reflecting readers to ask themselves what dependence can be placed in the representations and evidence of the colonial party in their own defence, when the most respectable of them did not scruple to mutilate a case of this kind ; and by a fallacious colouring to make that which strongly shows, when fairly stated, the impunity and the triumph of oppression and cruelty, evidence of their legal correction or restraint ?

In the island itself, the case was reasonably considered as fatal to every hope of repressing the cruelty of masters by law.

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## APPENDIX, No. II.

*Referred to in p. 71.*

As the slave trade is yet prosecuted by other countries, and I am not one of those who think its resumption by our own impossible, while colonial influence is powerful enough to prevent an effectual registration, and to maintain the opprobrious slave laws of our islands, I think it not superfluous to enquire from what African sources that detestable commerce is supplied, and on a question whether its victims shall still be sold, and exiled at the master's choice, and their future offspring held in bondage, it is not immaterial to show how far even the laws and customs of that country are from warranting the practice.

I therefore give the following extracts from evidence to which no apologist of the trade can object, because it was adduced by the slave traders themselves, in support of their bad cause before a committee of the Privy Council. I the rather do so, because the report I extract from is in few hands, and not likely to be reprinted.

*James Penny, Esq.,* an African merchant, who during eighteen years had as captain and mate of slave ships, traded to every part of the coast, had resided two years as a slave factor in Africa, and at the time of giving his evi-

dence was one of the Liverpool petitioners, and delegates against the abolition of the slave trade, said: "There are also native slaves in this country. " Three-fourths of the inhabitants are slaves—domestic slavery is very prevalent in this country—*their domestic slaves are never sold except for crimes.* They are tried for their crimes, and the number of slaves is so great, that the government would be afraid of committing any act of injustice for fear of a revolt."

"The crimes for which a man *becomes a slave*, are murder, adultery, " witchcraft, &c." (Here it is evident that, by *becoming a slave*, is meant becoming a *vendible slave*; for this witness, like all the rest, uses the term " slave" in two different senses; an ambiguity which it is necessary always to keep in view, in order to the right apprehension of such evidence. When the two species of slaves were opposed to each other, they commonly called the slave who could not be sold a *domestic*, or *grumetta*, or a " native slave.")

Mr. Penny did not know, he added, "that there are any countries, either " upon the coast, or in the interior parts of Africa, where slaves are bred " for sale." He went on to give reasons for supposing, that the whole number of slaves exported from Africa might be supplied by convictions for crimes, or delinquency alone. (See his Evidence in Privy Council Report, part 1st, title, Slaves.)

Mr. Penny was by no means singular among his party in this latter suggestion. So undeniable was it that slaves were not liable to be sold as a circumstance of their native condition, that our man-merchants greedily laid hold upon this single cause of expatriation, "criminal judgments," as the least shocking one they were able to assign; and magnified it, to the great disparagement of their other manufactories—kidnapping and war. The hypothesis, that the crimes of Africa solely or chiefly supplied our demand for slaves, was, however, liable to one small objection. How happened it that the crimes of that continent always bore an exact proportion to the last year's prices of sugar in Mark-lane? Or by what secret sympathy was it, that when West India credit was good, and planting speculations rise, the Liverpool merchant with certainty foresaw a great crop of felonies in Africa, and doubled his tonnage accordingly?

Governor Dalzell, a witness on the same side, who resided three years on the Gold Coast, gave the following account of the same class of persons, whom he more properly called *vassals*: "The Gold Coast is divided " into a number of petty states, governed by chiefs or caboceers. These " caboceers have each their particular vassals; but they have not such an " absolute power over them, as to be able to dispose of them, without the con- " sent of their fellow-vassals, or the pynims, or elders of the town. The " caboceers have no power over the lives and property of their vassals, " except in consequence of trial, which is before these pynims, or elders." (See his evidence in the same Report, part 1st, title, Government, Religion, &c.)

Mr. Matthews, another slave captain, and zealous witness for Liverpool, gave a more particular account; as far at least as respects the district of *Sierra Leone*, where he resided, and where he made it his object, as he stated, to obtain information how the slaves procured there were made

such. "The slaves (he says) make three-fourths of the inhabitants on that part of the coast." Yet he tells us, in another place, "Of the numbers which are taken from this country, only a small part are natives of the sea coast; some of which are prisoners made in the wars which the petty states have with each other; others are sold for various crimes, such as witchcraft, adultery," &c. &c.

It follows then, that though the slaves of this region constitute so large a part of the population, they are not sold unless when condemned for crimes, or taken in war.

In another part of his testimony we have this passage: "Mr. Matthews had opportunities of conversing with the slaves on board the ships, but never heard of any other manner in which they *became slaves*, than that of being made prisoners in war, or sold for crimes."

This witness, like Mr. Penny, though he before called three-fourths of the people *slaves*, was so conscious, we here see, of the wide distinction between their state and that of the wretched people who were sold to our traders, that he called the change from the one to the other, *becoming slaves*. It will be found, on a careful examination of the evidence of the other witnesses, that they almost universally fell into the same inaccurate forms of speech; and that though they were apt to give to the vassalage of Africa, and indeed to every species of civil subordination there, the vague name of slavery, yet in their own ideas, *vendible slavery* was so very different a thing, that to "condemn a man to be sold," or to "seize him for the purpose of sale," and to "make him a slave," were with them convertible forms of speech.

Of the situation of native slaves, and of those which after being sold have remained long with the purchaser, Mr. Matthews spoke very explicitly: "If the domestic slaves are born in a man's possession, or have been in his possession a twelvemonth, they cannot be sold without the form of a trial." He proceeded to give reasons for supposing the trial generally unfair; a point in which I am not anxious to contradict him; though his description of the proceedings, and the laws, seems to prove that the trial is somewhat more than a form; and most of the other witnesses on the same side professed to consider it as fairly conducted.

"The slaves (he added) that are purchased before the rainy season commences, are employed upon their plantations, and are sold to the Europeans, and sometimes among themselves, from one master to another, after the rice is planted." He speaks here of slaves brought down from the interior countries of Africa, and bought by the chiefs upon the coast; so that a very brief employment in agriculture, it would seem, or less than a year's service, does not suffice to take away their alienability.

"The seller (he went on to say) carries the manufactures he receives from the European, as the price of the slaves, up into the country, in order to purchase others. Some of the persons in this domestic slavery are therefore of the same description with those sold to the Europeans. Mr. Matthews has understood that the same species of domestic slavery exists in the interior country, and to a greater extent."

By "domestic slaves," here and throughout his evidence, Mr. M. evidently meant those who were either born, or, if I may so speak, had

acquired a settlement by residence in the country. He distinguished between *house* slaves, and *plantation* slaves; but by "domestic slaves" clearly included both; and used that term to distinguish the settled or domiciled slaves from those who are liable to be sold. (See his evidence at large, P. C. Reports, part 1. title, *Slaves.*)

Mr. *Norris* confirmed this account, as to the Gold Coast, the only part respecting which he offered any thing to the point. "The distinction is "this: a slave that has been purchased or acquired may be disposed of at "pleasure; but a slave born within the walls cannot be sold at the will "of his master, unless guilty of crimes, in which case he may be sold." — Mr. *Norris*, indeed, seemed to think this a privilege of the *Fantyn*, or Gold Coast, nation, distinguishing them from their neighbours; but he instanced no other country where a contrary law prevails; and it appears from other witnesses, that there is a general and striking uniformity in this point, between the laws of all the various nations of Africa. Mr. *N.* afterwards stated that the punishment of selling cannot be inflicted but by the sentence of a magistrate after a trial, which he supposed to be in general fairly conducted. (See his evidence, same report and title.)

In confirmation of these slave-trading witnesses, the following passages from the travels of Mr. *Park* may be offered; for this writer, whose work was digested and edited by the late Mr. *Bryan Edwards*, is regarded by the colonial leaders in parliament as belonging to their party; and has been repeatedly cited by them with great eulogium, as an author of most undoubted credit.

In his description of the *Mandingo* country, he thus writes:

"In the account which I have thus given of the natives, the reader must "bear in mind, that my observations apply chiefly to persons of free con- "dition, who constitute, I suppose, not more than one-fourth part of the "inhabitants at large; the other three-fourths are in a state of hopeless "and hereditary slavery, and are employed in cultivating the land, in the "care of cattle, and in servile offices of all kinds, much in the same "manner as the slaves in the West Indies.\* I was told, however, that "the *Mandingo* master can neither deprive his slave of life, *nor sell him to* "a stranger, *without first calling a palaver on his conduct; or, in other words,* "bringing him to a public trial: but this degree of protection is extended "only to the *native or domestic slave*. Captives taken in war, and those "unfortunate victims who are condemned to slavery for crimes or insol- "vency, and, in short, all those unhappy people who are brought down "from the interior countries for sale, have no security whatever; but "may be treated and disposed of in all respects as the owner thinks "proper: (i. e. a man who has been once sold as a captive or convict "may be sold again; or if taken or condemned in the interior, may be brought down and sold on the coast; but even this has, according to Mr. *Park*, an exception.)

"It sometimes happens, indeed, *when no ships are on the coast*, that a

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\* I conclude Mr. *Edwards* did not find this comparison in the *Journal*, but kindly furnished the illustration; because it sufficiently appears from Mr. *Park*'s own account, that no likeness to the driving method is to be found in Africa.

" humane and considerate master incorporates his purchased slaves among his domestics; and their offspring at least, if not the parents, become entitled to all the privileges of the native class." Park's Travels, p. 23, 24.

In another place the same writer speaks more comprehensively and distinctly on the same subject. " The slaves in Africa, I suppose, are nearly in the proportion of three to one to the free men. They claim no reward for their services, except food and clothing, and are treated with kindness or severity, according to the good or bad disposition of their masters. Custom, however, has established certain rules with regard to the treatment of slaves, which it is thought dishonourable to violate. Thus the domestic slaves, or such as are born in a man's own house, are treated with more lenity than those which are purchased with money. The authority of the master over the domestic slave, as I have elsewhere observed, *extends only to reasonable correction; for the master cannot sell his domestic, without having first brought him to a public trial, before the chief men of the place.*

" But these restrictions on the power of the master, *extend not to the case of prisoners taken in war, nor to that of slaves purchased with money.*" (Here the author gives the following note:)

" In time of famine; the master is permitted to sell one or more of his domestics to purchase provisions for his family; and in case of the master's insolvency, the domestic slaves are sometimes seized upon by the creditors, and if the master cannot redeem them, they are liable to be sold for payment of his debts. These are the only cases that I recollect, in which the domestic slaves are liable to be sold, without any misconduct or demerit of their own." (Page 288.)

Mr. Park proceeds to give some account of those wars by which slaves are procured; which he distinguishes into two kinds; and it evidently appears that wars of the more ordinary kind, not only produce the staple of the Slave Trade, but are carried on for that single purpose. They are so distinct in their nature from political quarrels of a less ignoble cast, that they have obtained even in that rude country, an appropriate name, being called by the natives " *tegria*."

In this part of his account, the intelligent traveller shews anew, and without design, how strongly the distinction between the state of the captives, which I have called vendible slavery, and the general and native slavery of Africa, is felt by all who are familiar with that country.—" War, therefore (he says), is certainly the most general and most productive source of slavery, and the desolations of war often (but not always) produce the second cause of slavery, *famine*, in which case a *freeman* becomes a *slave*, to avoid a greater calamity." (P. 294, 5.) Here " slavery" is evidently put for the liability to be sold; because the author had stated a few pages higher, that three-fourths of the whole population of Africa were " slaves," and in proof of it he had said, in p. 289, " for prisoners of war, at least such as are taken in open and declared war, when one kingdom avows hostilities against another, are generally of this description," i. e. native born slaves. — When, therefore, he so soon after says, that war is the most general and productive " source of slavery," the meaning can only be of " vendible slavery," a state to which, as it appears by the same account, (p. 294.)

the native slave, and freeman are, when made prisoners, equally reduced. It is likewise plain, that by the term *freeman* in this sentence, Mr. Park means the grumetta, domestic, or native slave; for he had just before said, that in time of famine, the master is permitted to sell one or more of his *domestics*. We find then, that not only in the ideas of the slave-trading witnesses, but of men of education, like Mr. Park, the native and home slavery of Africa is so distinct in this important point from the bondage of the West Indies, and the value of the distinction is so strongly felt, that though in the looseness of common language they call both the conditions "slavery;" yet when they are opposed to each other, the vendible negro alone is considered as in that state; and the ordinary bondage of Africa, in comparison to it, is regarded and spoken of, as a state of freedom.

Nor can we wonder that this distinction should force itself into the language of witnesses who are not, like Mr. Park, willing to point it out, when we advert to the widely different situations, in which these two descriptions of men, commonly confounded by the names of slaves, are always seen in Africa.

It appears in various passages of Mr. Park's book, that the vendible slaves are, from the moment of their becoming such, to their exportation, in constant and close confinement; most commonly by means of a chain, which unites them in a file together; so that, "to be put upon the slave chain," and to become liable to be sold, are convertible expressions (see p. 295, &c.); whereas the same author informs us, when speaking of the grumettas, domestics, or native slaves—"in all the laborious occupations above described, the master and his slaves work together, without any distinction of superiority." (P. 286.) The occupations here referred to comprise the labours of the field, as well as handiwork employments.

As this visible difference of treatment is a point of importance, on which, though a great misconception of the case prevails in the public mind, I am not aware of any contradiction in the testimony between the contending parties, it may perhaps be allowable to cite, by way of clear illustration, a passage or two in that evidence, from which, on all controverted subjects, I so rigidly abstain, the testimony adduced by abolitionists. The liberty may be further justified, because I shall cite them, not from the spontaneous account of any witness brought forward to support a previous statement of the party producing him, but from the unpremeditated answers given at the bar of the House of Lords by a highly respectable witness, under a cross-examination:

"Q. Have you made any enquiry, which enables you to judge what proportion the slaves in that country bear to the freemen?"

"A. I have very frequently made the attempt to ascertain that proportion. I made it an object in every place which I happened to visit; but so much alike in their appearance, in their treatment, and in the conduct observed towards them, are the domestic slaves in that country and the freemen, that I found it impracticable, unless I went to make individual investigations, to ascertain that proportion.

"Q. You therefore have not been enabled to discriminate between slaves

\* M. Edwards, the editor, should either have expunged this passage, or his comparison, supra, 448.

" and freemen, as you found them in the families of the natives whom you visited ?

" A. I never was able to discriminate between the son and the domestic slave of any chief.

" Q. Do you know whether any different species of labour is allotted to a freeman, from that which is allotted to a slave ; or from that which is allotted to a domestic slave, and the slave for sale ?

" A. I would state that they are not all vendible, as I understand the laws of Africa : and that there is the most marked difference in the appearance between the domestic slaves and those intended for sale. Those intended for sale I have always seen in a chain, and confined.

" Q. Do you state that to be universal in all the countries you have visited, that the slaves that are the subjects of sale, are universally distinguished by a chain ?

" A. I never saw any whom I was given to understand were the subjects of sale, or whom I could understand to be the subjects of sale, who were not confined in some manner.

" Q. Are you now speaking of slaves brought down to the factories of the Slave Traders for the immediate purpose of sale ; or do you speak of all slaves who are the subjects of sale wherever they may be found about the houses or plantations of their masters ?

" A. I never could understand, notwithstanding many enquiries I have made on the subject, that any slaves for sale were kept in the hands of any upon the coast but slave-factors.

" Q. Have you been any considerable way up the country, so as to have an opportunity of seeing how, and by whom, field-labour is performed ?

" A. I have ; and field-labour is performed by free people, and by the domestic slaves, jointly and indiscriminately.

" Q. Do you mean to say that the slave who is the subject of sale never performs the field-labour ?

" A. I would again state, that I never knew any African chief keep upon his hands slaves intended for sale. That I understood, however, that in one part of the country, where a number of slaves had been brought down expecting a market, which, in consequence of the breaking out of the war they did not obtain, that a number of the slaves so brought down were purchased and employed for one season in cultivating rice.

" Q. Whether you saw any of the persons you have been describing, and if you did see them, did you see any of them in chains ?

" A. I have already said that I never saw any person whom I understood to be intended for sale, at work." (Evidence of Zachary Macaulay, Esq. formerly Governor of Sierra Leone, taken at the bar of the House of Lords on the bill for partially abolishing the Slave Trade in 1799. Printed Evidence, 269, 290.)

The important distinction established by these remarks and citations, may be further supported from the same body of evidence last referred to, as furnished on the part of the slave traders.

Capt. Olderman, one of the Liverpool witnesses, who had been upwards of twenty years in the Slave Trade, incidentally, but clearly, disclosed this

privilege of the ordinary or native slaves, whom he, like others, calls domestics.

It had been a point in the examination, whether the carriers of ivory from the interior to the sea coast, were sold, together with their burthens; a fact which the Liverpool party, with their usual ingenuity, tried to establish, as an argument that the gum and ivory trade, depended on, and must fall with, the Slave Trade;—but the proposition of fact, was found liable to an obvious objection: for it was admitted that the articles brought down to the coast, were paid for by a barter of European goods, which went back into the interior country: if, therefore, all the porters were sold, it was naturally asked, who carried back the returns?

To escape from this difficulty, the witness answered—“ I think I stated “ that they were not all sold that brought down the goods; and I naturally “ presume, that for a tooth of ivory of a hundred weight, we may find “ goods to purchase it that will not weigh ten pounds; consequently, nine- “ tenths of the carriage, upon that presumption, will not be wanted back “ again.

“ Q. Do you mean then that a part of the slaves can carry back into the “ interior country the returns for the commodities brought down by the “ whole?

“ A. I suppose they do, nearly so. But I suppose that there are *domestic* “ slaves always among them, as well as those that are to be sold, *who are* “ *not sold, except on the commission of some crime.*” (Same printed Evi-  
dence, 87, 88.)

If any doubt still remains in the mind of the reader, whether the *domestics*, or native slaves of Africa, are generally unalienable, I refer to the long examination of Capt. Humie, in the same printed evidence, especially from page 56 to 60.—It will be found well worth the curiosity of persons unused to the perusal of such testimony; but is too long for insertion here, and would be injured by abbreviation.

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### APPENDIX, No. III.

*Referred to in p. 84, &c.*

PERPETUAL separation and exile from a man's native land, and all the endeared objects of his early attachments and habits, is justly considered by lawgivers as the severest punishment that human laws can inflict, death only excepted; and therefore they have generally reserved it for offences of the class properly called capital, when perpetrated under some extenuatory circumstances, or when, though the safety of society demands an expulsion from it of the guilty member, it may be allowable mercifully to spare his life.

Now if the innocent negro, born or long settled in one island, and transported by his master's authority to labour till his death in another, does not undergo all the sufferings of the English convict sent for life to Botany Bay as a commutation for the pains of death, it must be because he has less sensibility than the hardened felon whose painful fate he shares. This, it will be admitted, is not probable; because capital crimes are rarely committed till after a long course of vicious and disgraceful conduct, by which the offender has forfeited the regard of all his decent relatives, and lost the sense of every tender and virtuous attachment; so that in being cast out by his country, he is separated from nothing that he loves; except perhaps the immediate means of indulging his depraved and sensual appetites. The poor transported slaves, on the contrary, might invoke the testimony of their oppressors, in proof that their unfortunate race, the females especially, are remarkable for strength of attachment to their offspring, their parents, and other relatives and friends; and yet from such of these as remain behind, their removal to another island is a separation as final and hopeless as death itself could make.\*

It is pretended that such separations are not common; for the planters, it is said, generally remove the entire stock of slaves belonging to the same estate (the whole "*gang*" as it is called) together. If so, it would not justify the *lews* of the colonies on which I am remarking; for not one of these will be found to enjoin such humanity; or to impose, in this respect, any restraint whatever on the master's power of transportation. But, in point of practice, the plea is both deceptious and untrue; deceptious, because it assumes that the near relatives and connections of the slaves always belong to the same estate with them, and to the same owner, which to a great extent is not the case; and untrue, because it is notorious that in

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\* The following anecdote is related by Mr. Watson, in his very able defence of the Methodist Missions. He gives it on the authority of a pious missionary, Mr. Gilgras, who was an eye and ear witness of the facts, and I pity the insensibility of the man who can read it without emotion.

A master of slaves who lived near us in Kingston, Jamaica, exercised his barbarities on a Sabbath morning, while we were worshipping God in the chapel; and the cries of the female sufferers have frequently interrupted us in our devotions. But there was no redress for them, or for us. This man wanted money, and, one of the female slaves having two fine children, he sold one of them, and the child was torn from her maternal affection. In the agony of her feelings she made a hideous howling, and for that crime was flogged. Soon after he sold the other child. This turned her heart within her, and impelled her into a kind of madness. She howled night and day in the yard; tore her hair; ran up and down the streets and the parade, rending the heavens with her cries, and literally watering the earth with her tears. Her constant cry was, "Da wicked massa Jew, he "sell my children. Will no Buckra massa pity negar? What me do? Me no "have one child!" As she stood before the window, she said, lifting up her hands towards Heaven, "My massa, do, my massa minister, pity me! My heart "do so," (shaking herself violently,) "my heart do so, because me have no child. "Me go to massa house, in massa yard, and in my hut, and me no see 'em." And then her cry went up to God.

this use of the master's tremendous power, the same self-interest that prompts the unfeeling act, has most commonly led him to select for the purpose the younger and more vigorous members of the gang, preferring also males to females, and leaving behind the rest, as less fit for his purpose in the new field of enterprise; and this, whether his object has been to sell them there, or to employ them in settling an estate for his benefit.

The transported felon, when arrived at the place of his destination, is not deteriorated, but rather improved, in his physical well-being, by the wholesome severity of the law. He exchanges the dissolute and pernicious habits of his former life, for moderate and salutary labour; and the probability is that his life will be prolonged beyond the date to which it would have arrived in his native country, without even calculating on the risk of its having been shortened by the public executioner.

Very different is the case with the innocent transported slave. The change, with him, is from modes of labour, which, however severe, had been familiarized and softened by the lenifying power of habit, to new modes of it, exacted, in an equal degree at least, by the same coercive means; and rendered more irksome, as well as more difficult, from their novelty. Such is undeniably his lot in the new settlements, in Trinidad where he has woods to clear\*, and in Guiana, where he has also drains to open, and embankments to form or repair, and to regulate his hours of labour in several of its branches by the tides of rivers, without regard to the vicissitudes of night and day†; all of which are painful innovations on the habits of his former life; for in our old West India islands such modes of labour, and in the Bahamas, night work also, are unknown. The physical effects of these changes, and of the transition from a dry to a humid soil and atmosphere, concur, with the deadly influence of dejection and despair, to destroy the health, and shorten the lives of these miserable exiles. The "seasoning," as it was called, of African slaves on their first arrival in the West Indies, was not more extensively fatal; I believe rarely so in an equal degree.

If we extend this comparison to the moral effects of these transports, the innocent exiles will be found in this respect also to be treated far worse by their masters, than the transported felon by the state. In *their* case, no melioration of moral or intellectual character, forms any part of the probable consequences, or of the design. In general, the very reverse is the tendency of their removal. They go from islands, in which the slaves,

\* I have been credibly informed that from the effects of this new species of labour, negroes brought from the Leeward islands have experienced very severe sufferings. The stumps of the trees and bushes, which are generally armed with strong thorns in that climate, wound and excoriate their naked feet and legs, producing painful and often incurable ulcers. I have heard of more than half an entire gang having suffered so much in this way, that many of them lost their toes, and the rest were more or less crippled or tormented with sores, which it was found difficult or impossible to heal.

† Mills for grinding sugar canes are there, on many estates, turned with the tide, which must be used, during the crop, whenever the tide serves.

being mostly creoles by birth, are comparatively advanced in civilization and knowledge, to countries recently settled by the slave trade, and where African manners and superstitions consequently still subsist in all their primitive grossness. They are sent from the Leeward islands, and the Bahamas, where by means of the religious societies, Christianity has made considerable progress among the slaves to Trinidad, where, except in the thickest darkness of Papal superstitions, a black Christian is scarcely to be found; or to Demerara, where the light of the Gospel was till very lately systematically excluded by law, and where not one slave in a hundred can yet obtain, in any form, the benefit of religious instruction and public worship.

While the convict, is likely to be made by his exile a better, if not also a happier man; the innocent transported negro, is thus injured in his spiritual, as well as his temporal interests; and his harsh destiny is embittered still more by the loss of his religious consolations.

Without pushing further this opprobrious comparison, or entering deeper into the afflicting subject, I will affirm, as I most seriously and conscientiously can, using the words of a gallant admiral, himself a West India proprietor, and personally acquainted with the general case, that it would be more merciful to put these much-injured fellow creatures to an immediate death, than to subject them to these cruel transports.\*

Nor are these opinions opposite to the feelings and wishes of our West Indian fellow subjects at large. On the contrary, such removals of slaves are subjects of great commiseration and regret among the white inhabitants of the islands from which they are sent. Since I began these strictures on the practice, private accounts have reached my ears from the Leeward islands, of two shipments of slaves for Trinidad, in which the misery and despair of the poor expatriated victims excited not only a lively sympathy, but indignation, pretty loudly expressed, against the unfeeling masters; and unless I am deceived, a bill was very recently brought into the Council or Assembly of one of those islands to prohibit such ruthless oppression in future; which would have passed into a law, if it had not been suggested and believed that parliament was on the point of adopting a more efficacious and general prohibition. I rather believe it, because in another of the Leeward islands, Antigua, an act for that purpose was actually passed a few years ago, and transmitted for the royal allowance; though, by a deplorable mistake in the government offices here, it became ineffectual and void.†

\* Sir J. Coffin, Baronet, Member of Parliament for Ilchester, who said in the debate upon a late Bill, 'A Bill for permitting the Removal of Slaves from Antigua to Demerara,' "Sir, I know from personal acquaintance with the subject of such removals, what the effects of this Bill would be to the unfortunate objects of it; and I hesitate not to say that it would be less cruel to shoot them through the head."

Mr. Marryat said, on the same occasion, "they would die like rotten sheep."

† A general order in council had been made, by which Colonial Acts not expressly allowed within a limited time, were to be considered as disallowed by the crown; and a particular objection arising to one of the clauses of this Act, de-

How happens it, the reader may naturally exclaim, that if these things are so, the government and parliament of this country should have so long permitted by law the transportation of slaves from one island to another?

It is a question to which no satisfactory answer can be given. The common excuse of a difficulty or delicacy in the work of legislating on subjects belonging to the interior government of the colonies, is unsound in all cases; but in this would be absolutely irrelevant and preposterous: for a prohibition of carrying slaves from one colony to another, is not a matter of mere interior legislation; nor have the assemblies in this case even an adequate concurrent power. Each of them, perhaps, may lawfully prohibit, as that of Antigua to its honour attempted to do, the shipment and clearance of slaves from its own ports; though even this, in respect of any other exportable commodity, would hardly be permitted by the mother country; but no colonial legislature has power to restrain the carriage of the exiles by British vessels, on the High Seas; still less their being imported into an island not within its jurisdiction. This oppression, therefore, can be effectually restrained by Parliament alone; and to deny the constitutional right of its interference in such a case, would be virtually to maintain that the colonies are in all cases exempt from Parliamentary controul; and consequently that the abolition act itself was an usurpation, and ought to be repealed.

More, however, than mere neglect of duty, is here chargeable on the Imperial Legislature. I grieve and blush to say, that Parliament has actually extended, and that within the last few years, the legal range of this species of oppression; and in a way too which constitutes at present its chief practical use, as well as its greatest cruelty and mischief, by opening to this intercolonial slave trade, the ports of Demerara and Berbice, which the abolition acts had happily shut against it. By an act of the 58th of His late Majesty, Chapter 49., power was given to the King, with the advice of the Privy Council, to grant licences for the transportation of slaves, by the owner, to those new settlements, from the Bahama Islands and Dominica.

For this retrogression in the course of humanity towards the victims of the repudiated slave trade, I can offer no tolerable defence; but may allay the reader's curiosity perhaps by an explanation. It may be found in one emphatic Parliamentary monosyllable. The measure was a *Job*.

Let not party-spirit, however, exult in the familiar sound. The patrons of the *Job* were not found only on one side of the House of Commons. Private solicitation and intrigue were equally successful on both.

The fact was, that certain proprietors of the Bahamas and Dominica, thought they could sustain their declining fortunes by transferring their slaves from the now poor lands and cheap slave markets of those islands, to the now fertile lands and high slave markets of Guiana; and that in the latter there were sellers of land, and buyers of slaves, eager to deal with

them, and assiduous to back their canvass for a Parliamentary licence. I could be more particular; but let it suffice to say, that no private bill was ever more the subject of private solicitation and interest, than this measure, which was a partial repeal of the abolition, and inflicted the pains of perpetual transportation, heart-breaking, and death, upon hundreds of unheard, helpless, and unoffending fellow creatures.

But surely, it may be replied, there must have been some plausible pretence of a right principle, by which Parliament was misled. It had a pretence, I admit; but one plausible only with men profoundly ignorant of the subject, and who did not take the right course to be fairly informed. It was preposterously, as well as cruelly, pretended that the welfare of the slaves themselves demanded their removal !!!

In this, as in a multitude of other instances connected with the slave trade and slavery, representations have been confidently made and adopted, for the most important practical purposes, in Parliament, which in the places they refer to would be thought too absurd for serious refutation, and treated only with derision. Because the soil of the Bahamas is too poor, or too much exhausted, for the advantageous cultivation of sugar and other exportable produce, it was gravely inferred that the slaves could not be fed and sustained there in an adequate manner; and that it was necessary, therefore, for their subsistence and preservation, that they should be removed to the fertile swamps of Guiana, to be employed in the culture of sugar; as if it were an axiom, or a proposition well established, that slaves can only be maintained by the returns for such commodities, or at least that the more produce the master exports, the better his slaves are fed.

The fact, on the contrary, is, that the slaves of the Bahamas have not for many years, if ever, been maintained out of the returns of any produce exported or sold; and that they have been, and are, much better fed and maintained than men in the same degraded state in any other part of the West Indies, precisely because their masters have been unable of late years to raise any sugar or other tropical produce to export; and therefore have had no dependency on returns from the markets of Europe.

Nor is this inverse ratio of the subsistence of slaves to the exportable produce raised by their labour, peculiar to the Bahamas. Generally speaking, it may be affirmed of the slaves in the sugar colonies collectively, that the more fertile the colony, or the estate on which they work, their subsistence, *ceteris paribus*, is the less liberal, and the more precarious.

The poverty or affluence of the master, indeed, often affects them in what may seem a more natural, as well as more excusable way. In colonies where they are sustained by imported provisions, his poverty or distress is admitted to occasion frequently, and sometimes in a deplorable degree, short allowance, and actual famine, among those his helpless dependants. But from the peculiar and fatal characteristics of West India agriculture, the master is by no means unlikely to be very poor, because his lands are very rich; and for this plain reason, that he, though a landholder, is a manufacturer also, and an exporter of the produce he raises, who carries on his precarious and fluctuating business, for the most part,

with a borrowed capital, and is loaded with debt, commonly in a direct proportion to the value and productiveness of the estate he holds. His ability to sustain his slaves with liberality therefore depends not on the fertility of his lands, but on the excess of the value of his sugar crops beyond the interest of his debts, and the other outgoings incident to the expensive business in which he is engaged. To assume that he is rich, because his lands are fertile, would be like concluding that goldsmiths and jewellers must necessarily be wealthy men, because they deal in valuable commodities.

If indeed a planter has long been the owner of fertile lands, the general probability, I admit, would be that he is more affluent than if they had been less productive; if it were not for that ordinary feature in the character of West India proprietors, their propensity when prosperous to reside in Europe, and to indulge here in expences far exceeding the average returns of the very changeful property they hold; but when this characteristic is taken into the account, the long possession even of the most fertile estate, forms no presumption that its owner is not poor and embarrassed. The case, however, of such long possession is comparatively rare. The tenure of sugar estates in the same hands or family, is generally but brief; and when a plantation has been recently acquired, its long continued past fertility, affords a presumption only that it has been bought at an enormous price, the greater part of which is probably charged, according to custom, on the land and the unfortunate slaves.

When these circumstances are considered, it will not appear a paradox that there is nothing in the removal of slaves from poor to fertile lands, to insure to them, or even to render it probable, that their situation, in point of maintenance, will be improved through the master's increased ability to maintain them. On the other hand, there is, strange though it may appear, a direct tendency in such a change, to deteriorate their treatment, in that most essential article, the quantum of food. The causes are that when the lands of a particular estate, and still more when those of an entire colony, are too poor for the profitable culture of sugar, the master, instead of sustaining his slaves by imported flour or grain, which he must have money or credit to procure, raises provisions enough on his own lands for the purpose; and this is commonly in some measure done by allotting land to the slaves for their individual use, and time for its cultivation.

It is when this system is adopted, and liberally pursued, and generally speaking in that case only, that the slaves on a sugar plantation are sufficiently fed. When they depend on imported provisions alone, their allowances of them at the best are scanty. Now, it is obvious, that whether by separate allotments of land and time, or by employing the whole gang to cultivate provision grounds for their common supply, native provisions are likely to be raised in the greatest abundance, where the land and the labour are cheapest; and this must be where the soil is not well fitted for the growth of the more valuable tropical products; and where the labour and whole time of the slaves, therefore, are not in demand for that favourite purpose. These consequences too, salutary as they are to the slave, however adverse their cause may be to the master, will be

the greatest in degree, where the unprofitableness of sugar planting is not owing to the natural and original sterility of the lands; but to their progressive exhaustion, or to some collateral cause; such as the low price of the commodity in the markets of Europe; because in such cases, there will be a large disposable quantity of labour, as well as of land, for the growth of native provisions, by the throwing progressively out of cane planting, (the most laborious branch by far of West India agriculture) such portions of the land as are least fit for that purpose, while the numbers and effective strength of the slaves on the estate, or in the colony, remain unimpaired, or are, by the salutary effects of these very changes, progressively increased.

As these are views of the highest practical importance, especially in this era of promised reformations in the state of slavery, and yet are diametrically opposite not only to the principle of the act under review, but to very general and natural European prepossessions, I shall be excusable perhaps in detaining the reader a while, to shew to him by the most satisfactory evidence, that they are not chimerical; but that what I have shewn to be probable in theory, is consonant to experience, and to acknowledged and incontestable fact.

The effects on the welfare of the slaves of sterility of soil, and of the consequent adversity of the master, cannot be better illustrated than by the very case which has led to these remarks; that of the Bahamas.

In those islands, about thirty years ago, the soil was thought, and for some seasons was found, to be highly favourable to cotton, which then sold at high prices in Europe. In consequence, the lands were eagerly purchased, and slaves largely imported for their cultivation. But in a few years, the cotton lands were found to fail, as is not unusual with that plant, and sugar was tried as a substitute, but with little or no success. The planters, therefore, unable, for the most part, to find any article of exportable produce, were obliged to employ their slaves in raising provisions and stock. What were the results? To the proprietors, distress enough I admit, and to many of them ruin; but to the slaves, the effects have been ease, plenty, health, and the preservation and increase of their numbers by native means, all in a degree quite beyond example in any other part of the West Indies. To these benefits, let me add that infinitely greater one, the attainment by many of them, and the hope by all, of freedom. Manumissions have abounded there; and but for the commencement of the cruel practice in question, would probably have multiplied so fast, that ere long the reproach and the curse of slavery would have been quite removed from the Bahamas.

For these facts many concurrent authorities might be cited; but it may suffice to refer to an important public document transmitted by the assembly of the Bahamas to the colonial agent Mr. Chalmers, and by him laid before Parliament in the year 1816, in opposition to the Slave Register Bill.\*

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\* The document referred to is a report of a committee of the assembly unanimously adopted by the house, and supported by the evidence of many respectable colonists. Almost every line of it tends directly or indirectly to con-

Let the reader, after perusing the extracts here subjoined, disbelieve, if he can, that the failure of the Bahamas as a cotton and sugar colony, was

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firm the facts here stated ; but I will not encumber my work with more than the following extracts, which I transcribe from a copy printed and published by the agent.

“ The truth is that these islands have long been overstocked with slaves.” (page 8.)

“ The extreme disproportion of the number of the slaves to the exigencies of the colony, has been perhaps in some degree occasioned by the almost total failure of the soil on many of the principal islands. It is probably already well known that the most fertile of our lands are but large beds of broken rocks, in the intervals of which was at first found a rich vegetable mould, which yielded for a few years abundant crops of cotton, corn, and even sugar cane, &c. The prospects of the planting interest appeared for a time bright and promising. But the soil, though every where rich, was no where of great depth, and in a few years its strength was found to be irrecoverably exhausted.” Ibid.

“ Other reasons have contributed much to the late depreciation of slaves in these islands. In the first place their great natural increase ; the want of full employment for them, and the indulgent habits of owners generally towards them on these islands, being favourable in that respect.” Ibid.

“ This committee are well assured that from the little opportunity there is at present of employing the number of slaves already in this country, there are several entire gangs which contribute to their master's benefit in scarcely any other way than by raising children.” (page 11.)

“ Slaves in this colony are treated humanely, and their employment here is of a less laborious nature than in other colonies.” (Page 28. Evidence of W. Vesey Munings, Esq.)

“ In consequence of the exhausted state of the lands, there is not employment enough for the slaves at present upon them ; nearly whole islands which were formerly under cultivation in plantations of cotton, being at present capable of little else than raising cattle and sheep.”

“ The increase of the slave population of these Islands from births, shews in a striking manner their comfort, and the humanity of the treatment of them, there being no plantation on which gangs of negroes have been stationary that has not had its numbers considerably increased.” (Page 35 and 36. Evidence of Theodore George Alexander, Esquire.)

“ I have no doubt but the natural increase of the slave population of these islands has been fully equal to what it would have been with the same persons had they actually been free ; for in general the numbers of children on the plantations under twelve years of age are fully equal to all above that age. A planter who is now with me informs me that he has seventy-five slaves who were born on his own plantations, and he never purchased above half that number of grown persons of both sexes. That the number of children who died were about fifteen ; some of the families including children and grandchildren amounting to twenty-five now alive.” (Page 40 and 41. Evidence of Mr. M'Queen.)

“ The gangs increase yearly, as *Negroes here live to an advanced age*, and the births far exceed the deaths. The general treatment of slaves in these islands

a happy event for their *black*, however seemingly unfortunate for their *white* population. I say *seemingly*, for though it may expose me to the imputation of

“ is very humane, and quite exemplary. The instances of cruelty or ill-treatment of them are very rare. They are generally well clothed, and fed with a full sufficiency of good and wholesome provisions; have moderate tasks of labour imposed upon them when in health, and are allowed many privileges, such as to cultivate lands, raise poultry and hogs for themselves upon the estate.” “ In no place are to be seen finer Negroes, or any so well clothed and found in necessaries.” (Page 48. Evidence of Joseph G. Hunter, Esquire.)

Lest it should be suspected that these gentlemen have complimented themselves and their fellow colonists, at the expence of truth, I will add from the same Report, an extract or two from the testimony of Mr. Wyly, then Attorney General of the Bahamas, a gentleman pre-eminently entitled to credit on this subject, because he honourably dared, at the expence of incurring rancorous enmity and persecution by the Assembly and the colonists at large, to contradict the representations of the Report in other points, when contrary to fact.

“ I have not been,” he says, “ in the West Indies, (for the people of this country do not consider themselves as West Indians) but from what I understand of the matter, I am convinced that the labour of our cotton plantations is mere play, when compared to the toils of a sugar estate, on which the exertions of the slaves must necessarily be great, and often I fear of too much continuance. I take it for granted too that they are sometimes driven to their work in the West Indies; (he might have said *always*, when the nature of the work does not make it impossible); but the practice in these islands is quite different. No field labour, where the plough is not in use, can possibly be lighter than that of our plantations; and whenever the nature of the work will admit of it, our negroes are regularly tasked.”

“ Crops sometimes fail in all countries, and I fear every planter does not consider his slaves as his fellow men. It is therefore very possible that the negroes on our plantations may not always receive their legal allowance of provisions. I declare, however, that in the course of the last twelve years three cases only of this kind have come to my knowledge, and that each case has given rise to a prosecution. It is indeed hardly possible that the negroes in these islands can suffer so much from the want of food as in the sugar colonies, where, I believe, they are for the most part subsisted on imported provisions, and where the price of land is so high, that but a small part only of each estate can be allotted to the production of grain. But in these islands, the plantations are in general of considerable extent, and cost but little money. We are indeed rather farmers and graziers, than West India planters; insomuch that the greater part of every plantation is generally employed as pasture, or planted with provisions, and our out islands produce more corn than they consume. Besides the stated allowance of grain to which our plantation negroes are by law intitled, they are allowed as much ground as they choose to cultivate; and are universally permitted to raise hogs and poultry.” (Page 52.)

Mr. Wyly also states, “ that he does not think that there is a *West India* *cart whip* in the Bahama islands;” and declares that he never saw or heard of “ one; and that the slaves never work by night, nor after sun-set.” (Page 51.)

Such is the situation which the slaves of the Bahamas are to exchange for the benefit of being placed under drivers, to dig cane holes in the sickly swamps of

singularity, and even of extravagance, with those who are ignorant of colonial affairs, I cannot with sincerity admit that it was a real misfortune to lose those staple articles of West Indian agriculture, and to be driven in their stead to raise provisions and stock. I will not digress so far as might be necessary to justify in the eyes of ordinary readers this protest against a popular error; but doubt not to demonstrate satisfactorily in the second division of this work, that sugar planting by the labour of slaves, is, and ever has been, a deeply-losing game, not only for the nation, but for the planters themselves in a collective view; and that it has been prosecuted with avidity so long, only because in this species of gaming, as in the lottery, the general loss of the adventurers has particular and splendid exceptions.

At present, however, I am considering the interest, not of the masters, but of the slaves; and as to these, the reader may well be astonished to find that within two years of the date after the report here cited, it was represented by planters of the Bahamas, and actually recited in an Act of Parliament, to be for *the benefit of these poor beings, to remove them to Guiana!!!*

There is one sense in which the proposition may be true. They are speedily and copiously consigned by it to that unseen world,

“ Where slaves their native liberty regain.”

It is said, and I doubt not with truth, that one-third of the first cargo of victims to this Act of Parliament perished at Demerara within two years after their arrival. Let not the authors or abettors of such oppressions, however, in reckoning with their consciences, stop with the tale of lives thus murderously destroyed. The mere homicide is venial, compared with the barbarity of the long and merciless process; and the yet survivors will have a still heavier charge to carry up to the throne of eternal justice, when they also are released.

I possess not the means of comparing in *all points*, and on authority to which an uncandid opponent might not object, the condition of these poor exiles in Demerara, with their former one in the Bahamas; but refer to the preceding general remarks on that subject. That they are *driven* in the one, and were *not driven* in the other, is not to be denied; which would alone suffice to make the transition dreadful, and most pernicious in its consequences, to their well-being, physical, intellectual, and moral. They have passed also from a state in which manumission was frequent and unrestrained by law (see the same Report, page 11.), to one in which it is very rare; and unless royal authority has been very recently interposed, is discouraged by a heavy tax.

But the proprietors of the Bahamas will not object, I trust, to their own criterion of general humanity and liberality in the treatment of slaves; and if not, *they* at least, though some of them are the authors of these transports, and solicited the Act that allows them, must admit that the new situation forms a sad contrast with the old. They, and their

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Demerara!!! Yet the Act that dooms them to this sad reverse of destiny, insults its miserable victims by telling them, that “ *it will tend to meliorate their condition!!!*”

Assembly, strongly insist, as we have seen, and not more strongly than justly, that the great native increase of their slaves, unexampled in the sugar colonies, demonstrates their having been well sustained, and treated with liberality and kindness. Using the terms comparatively, and with reference to the state of colonial slavery in general, no proposition can be less liable to dispute. But Demerara has no such favourable presumption to allege. On the contrary, her loss of slaves by mortality is frightfully great. It amounted, by the last Parliamentary returns, in three years, from 1817 to 1820, to 5785, on a population that was on a medium little more than 78,000; but whatever was added by illicit importation during this period, is of course also to be added to this amount of loss; and that this addition, if it could be ascertained, would be very great, a man who considers the local position of the colony, and its craving demand for slaves, will hardly doubt; unless he is credulous enough to believe that the most determined opponents of the abolition are now, from conscious feelings alone, become its most incorruptible friends; and that while they inflict without scruple all the miseries of the slave trade on men, women, and children, whom they can obtain from the Bahamas; they have an insuperable moral repugnance to their infliction on Africans recently brought from the Slave Coast. The moral or economical feelings of the planters, could certainly be the only preventives of illicit importation, while the slave trade has been in full vigour in the conterminous Dutch colony of Surinam; and the Demerara registry too badly constituted to present any difficulty in the fraudulent substitution of new negroes for the slaves that died. But supposing no such practices to have taken place, and the returns quite correct, still we have here a loss of two and one-third *per cent. per annum*, distinguishing the colony as widely from our old sugar islands on that melancholy side, as the Bahamas are distinguished from them on the other.

Now, I will not affirm that this difference wholly arises from comparative humanity in the insular, and inhumanity in the continental, master; though the views of the Bahama Report would warrant such a conclusion. There are no doubt concurrent causes, of a local kind, which are not within the master's control. But the rapid increase of native slave population in the one case, and its rapid decline on the other, at least demonstrate this, that whether from a difference of treatment voluntary on the part of the masters, or from different local circumstances, or from both united, the slavery of the field negroes is in fact much milder, and less unfavourable to their physical comfort and well-being, in the Bahamas than in Demerara. And this is amply enough for my purpose; for the question here, be it remembered, is not of the merit or demerit of the masters, but the comparative condition of the slaves.

Unless then the transporting Bahama masters, will not only contradict their own Colonial Assembly, and the unanimous evidence of themselves or their fellow colonists, whose testimony I have cited, but the clear voice also of reason, by denying that comparative longevity, and native increase, are proofs of comparative well-being and comfort in a community of slaves; they must admit that the Act which opened to them the ports of Guiana, in the inter-colonial slave trade, was founded on a suggestion diametrically

opposite to truth; for that to remove their slaves to that country does not tend to "meliorate," but greatly and cruelly to deteriorate, their condition.

The other suggestion in the preamble of the Act, that "*the proprietors could not find profitable employment and subsistence for their slaves,*" was, whether so designed or not, a verbal fallacy, and had the effect of slurring over the important distinction between what might justly be done for the mere profit of the master, and what the care of the welfare and the subsistence of the slaves themselves, might justify or demand. If the promoters of the Bill thought it right or excusable in morals, that innocent men, women, and children, should be subjected to a cruel transportation merely for the master's profit, that principle ought to have been fairly and distinctly avowed. But it was felt, perhaps, that this was a ground upon which the concurrence of Parliament would not so easily be obtained. Another term therefore, subsistence, was thrown into the proposition; but one to warrant which no evidence was given, and which the public documents I have cited, proves to have been contrary to truth.

Parliament, no doubt in its ignorance of colonial statistics, was led to conceive that want of employment profitable to the master, implied want of subsistence for the slaves; whereas the evidence I have extracted, proves, that while the one had for many years been wanting, the other had been abundant; that the slaves were "*well clothed and provided with a full sufficiency of good and wholesome provisions;*" that they had even "*poultry and hogs*" in addition to the food which slaves receive in other colonies; that "*in no place were to be seen finer negroes, or any so well clothed and found in necessaries;*" and that while their owners "*had been able to find no profitable employment for them,*" except in raising corn and other provisions and live stock, the slaves had been in such a state of health and comfort as to increase and multiply beyond any example to be found in any other colony. They were "*contributing to their masters' benefit, in scarcely any other way,*" as the committee of the Assembly puts it, "*than by raising children.*" Never, to be sure, was the preamble of any law so completely falsified as this, in the only point which could be alleged to reconcile its provisions, in any degree, with humanity or justice; and this too by the testimony of those very persons on whose behalf it was solicited!!!

But it is important, for wider purposes than the condemnation of this oppressive statute, to shew how groundless the pretence is, that humanity to slaves demands the culture of sugar, and profitable returns of such produce. To this end, therefore, I will compare the subsistence of the slaves of the Bahamas, with that of the slaves of the Leeward Islands; while the former were raising neither sugar nor any other tropical produce for exportation; and the latter, in the zenith of their prosperity, were raising nothing else.

This I am fortunately able to do, upon evidence not less authoritative and conclusive than that of the Bahama Report.

The General Council and Assembly of the Leeward Islands, convened at Saint Christopher in 1798, anxiously framed regulations for compelling

the planters to give what they deemed an adequate subsistence to their slaves.

In their Meliorating Act of that year, certain weekly allowances of food are prescribed, as to what masters should be bound under penalties to provide. In the year next preceding, the Council and Assembly of the Bahamas passed an act with provisions for the same purpose, prescribing also weekly allowances of food; and the subjoined parallel columns will shew how widely these two legislatures differed in their views of the same interesting subject:

LEEWARD ISLANDS.	BAHAMAS.
Allowances per Week.	Allowances per Week.
9 Pints of corn or beans or	1 Peck of unground Indian or Guinea corn.
8 Pints of pease or wheat, or rye flour or Indian corn meal or	or 21 Pints of wheat flour.
9 Pints of oatmeal or	or
7 Pints of rice or	7 Quarts of rice.
20 Pounds of yams or potatoes or	or
50 Pounds of plaintains or bananas	56 Pounds of potatoes, or yams. *

\* There are some other varieties as to the specific articles of allowances in the Leeward Island Act, on the same scale, which I do not insert, as the Bahama Act has no such articles to compare with them. The former Act adds one pound and a quarter of herrings, shads, mackarel, or other salted provisions per week, or double the quantity of fish or other fresh provisions. The latter Act prescribes no allowance of such articles. The Bahama Act, on the other hand, requires that every slave shall, over and above such allowances, have a sufficient quantity of land as his or her proper ground; whereas the Leeward Island Act makes no such addition, except a piece or spot of ground of forty feet square, "round or close to each negro house," should be thought worth adding to the account.

The reasons of these distinctions may be found in the latter Act itself, and in the Bahama Report before referred to. It appears from recitals and provisions in the Act of the Leeward Islands, and is quite notorious, that in those islands, covered wholly with sugar canes as most of them are, many estates have no provision-grounds to spare. In St. Christopher especially, a great proportion of the estates are in that predicament. But the Act, in respect of Totola, where there is much land too poor for canes, absolves the master from one-fifth part of the prescribed allowances, on condition of his allotting land enough as an equivalent for it; and after reciting that "from the situation and " local circumstances of many estates in the Leeward Islands, the owners or " directors of such estates are enabled to allot portions of lands for their slaves " more than sufficient for their maintenance," &c., provides, that whenever such

The Act of the Leeward Islands makes no difference in respect of the ages of the slaves, leaving the master to apportion the entire weekly allowance "unto and among all and every his slave or slaves, in such proportions and shares as he shall think proper, according to their different labour, size, age, and strength, or otherwise, as the same shall appear to him in his discretion eligible or right;" a regulation certainly fair enough; except that it obviously adds to the other insuperable difficulties of enforcing such a law. But in the Bahama Act, the allowances here specified are for all negroes above the age of ten; and for children under that age, they are reduced by one-half.

After due allowance made for these diversities, it will be found that the legal subsistence of slaves in the then flourishing sugar colonies of the Leeward Islands, was and is less than in the impoverished Bahamas, by a difference truly enormous.\*

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land and its produce shall bear, or exceed, a certain proportion to the prescribed allowances, the latter may in like proportion be diminished.

The redundancy of provision-grounds every where in the Bahamas, will account for their Act having no such distinction; and as to the difference, on the other hand, of its requiring no allowance of animal food, the following passages in the like Report may explain it: "Besides the stated allowance of grain, to which our plantation negroes are by law entitled, they are allowed as much ground as they choose to cultivate, and are universally permitted to raise hogs and poultry, &c. It is also to be observed, that these islands are in general so narrow, that every plantation has at least one front to the sea, and that our bays and inlets abound with fish. In such situations it is natural to suppose that many of our male slaves become expert fishermen; and such indeed is the fact." P. 52. This, which is the statement of Mr. Wally, the then highly respectable attorney-general of the Bahamas, well accounts for the omission of any clause requiring such a modicum of imported fish, as is usually allowed in the sugar colonies, to be provided by the master, and which, as Dr. Collins justly observes, rather serves to season their other food, than to form any substantial addition to it.

The Act of the Leeward Islands so rigidly takes into account on the master's side, every resource of the poor slaves, by which its ratio of allowance might become more than the minimum of their necessary subsistence, that the master is permitted to reduce it one-fifth part during crop time, merely because the slaves may then derive a little nutrition from the sugar canes, by sucking their raw juices; a practice severely punished at all other times; but which in crop time it would be impracticable to prevent.

- The proportions of the prescribed allowance when given in rice, are just as two to one; in flour or meal, as two five-eighths to one; besides the important difference, that the larger quantity, must also be of the best and most nutritious quality, flour of wheat; whereas the less, may be of pease, rye, or Indian corn. The allowance when in whole corn is scarcely less disproportionate; and instead of the maize or Guinea corn, which is perhaps little inferior to wheat, the negro of the Leeward Islands may be fed on dry beans like a horse. When the esculent roots of native growth are substituted, the contrast is still greater. The subsistence of the Bahama slave when compared with that of the slave of the Leeward Islands, is as fourteen to five.

We have indeed to set against this calculation a difference for which I can

After every fair correction and allowance, the difference would probably be found nearly or fully as two to one in favour of the slave of the Bahamas. But supposing it less, or only as three to two, we have a disparity astonishing to a man ignorant of colonial affairs; especially considering that which it is the main object of these investigations to establish, namely, that the comparative parsimony is found on what he will deem the wrong side; that of the prosperous sugar planters, instead of the disappointed proprietors of a soil in which they can no longer raise any valuable tropical produce. The inequality will appear still stranger and more unjust, when adverting to the facts stated in the Bahama Report, he finds that the slaves most liberally sustained, are those whose labour is not, like that of their less fortunate brethren of the Antilles, coerced by the driving whip; and is lighter and far easier than theirs.

But the contrast may be further aggravated, by another difference of a most important kind, which yet remains to be told. The Bahama Act, if there is any faith due to the positive assertions not only of the Assembly, but of every witness it examined, including the respectable attorney-general, has been fully conformed to by the slave owners of that colony; while the Act of the Leeward Islands has been notoriously and confessedly abortive. The liberal allowances prescribed by the former, have been given; the niggard and inadequate allowances of the latter, have been withheld. Nor do I in this proposition allude merely to the present times, or to the long period during which distress has been felt by the sugar planters, from the depreciation of their produce. The insufficiency of the actual subsistence is indeed now a fact confessed, or rather assiduously brought forward as matter of alleged necessity, and as a ground for parliamentary relief; but while the price of sugar was high, and this insufficient plea\* of necessity had no place, the common allowances, on very

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find no authoritative measure, as it must depend upon the proportionate numbers in the Bahamas and the Leeward Islands respectively, of slave children under ten, to slaves above that age. One witness, whose testimony I have cited, says, that in the Bahamas the numbers below twelve were fully equal to those above it; an extraordinary fact, if true. In the Leeward Islands, it would have been a large estimate, perhaps, in 1797, the slave trade then subsisting, to suppose the one class a third part so numerous as the other. But the true proportions of numbers above and under ten, in both those governments, are unknown. On the other hand, important differences, unknown in point of quantity, are to be placed on the other side of the account; viz. the deductions from subsistence in the Leeward Islands, when any lands are allotted to the slaves; and the value of their unstinted allowances of land in the Bahamas. The deductions of one-fifth in crop time in the Leeward Islands may be more easily estimated. The crop lasts about six months; and if we take it at that duration, we shall have to deduct a tenth from the annual allowance on this account; and nine-tenths of the quantities specified will then be the average of weekly allowance in the Leeward Islands.

\* I call it insufficient, because it would be a gross and preposterous exaggeration to say, that the crops of sugar, even at the low recent prices, have not yielded enough of net proceeds to provide food for the slaves; and because even had the fact been so, it would have been unjust and inhuman to employ the land

many estates at least, fell far short of the legal rates. (See the facts stated in the body of this work, p. 99, 100, and the authorities there cited.)

Let it not be supposed, however, that I select for the purpose of these comparisons the case of the Leeward Islands, rather than that of any other sugar colony, because the planters of the rest are generally more humane and liberal. I am not prepared to admit such a superiority, even in the slave proprietors of the Bahamas; notwithstanding all that has been stated as to the actual treatment of their slaves. The best, or only general security against oppression, where absolute and virtually irresponsible power exists, is the want of temptation to oppress; and therefore, chiefly or only, is it that the conduct of the Bahama proprietors presents such a happy contrast to that of their brethren in the sugar colonies. Where there is abundance of cheap land fit for no other purpose than raising provisions, and where the supply of slave labour exceeds the demand for it, that master must not only be unfeeling, but regardless of his own obvious self-interest, who suffers his slaves to want. Where, on the contrary, every rood of cultivable land is fit for canes, and has been bought at a price so high, that sugar is the only indemnifying return the soil can give, and when the nett proceeds of the crops will scarcely suffice to preserve the estate to its owner, by keeping down the interest of the debts with which it is encumbered; his temptation is great to be too sparing in provisions; for they cannot be supplied without augmenting his embarrassments. They must be either paid for out of the proceeds of his current crop, to the probable disappointment of his creditors, or raised on his cane lands, to their still greater dissatisfaction and alarm, by a reduction of the crop itself. Without supposing any moral difference therefore in the characters of the sugar planters of the different colonies, it is natural that the slaves on poor lands should be more plentifully, and those on rich lands more scantily, fed. It is equally natural that where the labour of slaves redounds most copiously to the master's profit, it should be exacted in the greatest measure.

I admit, nevertheless, that where superior liberality and humanity in the general character of the proprietors are found, they will counteract in a considerable degree these predisposing causes; and I have more than once noticed, that such a superiority has long existed among the planters of Antigua, when compared at least with those of the Leeward Islands. But then this advantage also has been derived, not from the superior fertility of that island, but the reverse. Its soil failed much earlier, and more generally, than that of St. Christopher, or the other islands late in the same government; and therefore it possessed a much greater proportion of resident proprietors, who, finding it difficult to live in Europe in their former style, personally managed or superintended their own estates. Hence has arisen in great measure the honourable distinctions which I have repeatedly had to make in favour of the modern slave laws of that island;

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and the labour, in sugar planting, instead of raising from them the necessary supplies of native provisions. Creditors have no right to their interest, nor merchants to their commissions, nor the proprietor even to any income for his own support, till the poor labourers are fed.

especially in regard to the restraint of manumissions, of which Antigua is entirely innocent, and the master's power of transportation, which its legislature humanely, though fruitlessly, passed an Act to abolish. In the religious instruction of the slaves also, this island stands unrivalled; and here alone the free people of colour have been long admitted to the elective franchise.

To these characteristics it is to be ascribed, that though the Act of the Leeward Islands has even in Antigua been violated, as is fairly confessed, in regard to the prescribed rates of subsistence, the case has, probably, not in that respect been so general, as in other islands; for it satisfactorily appears, I think, that the black population has increased.

While these remarks shew the unsoundness of the pretext, that the transported slave has any physical compensation for the pains of exile, by his removal to a more fertile soil; they also refute another pretext, of which the promoters of the act for opening an intercolonial slave trade from the Bahamas to Demerara, much availed themselves. They represented the good treatment of the Bahama slaves, under which they had not only long maintained, but largely increased their numbers, without importation or purchase, as the effect of pre-eminent humanity and liberality in the masters now desiring their removal; and argued that as the removal of them to Guiana, was the only alternative to their being sold by these benevolent gentlemen, they would avoid by a change of place, the probably greater misfortune of a change of owners; as if the bill had given them security against the latter.

If local circumstances were, as I have shewn, the true sources of the great comparative good fortune of the Bahama slaves, this defence was as fallacious as the rest; and the reversal of those favourable circumstances, not a change of masters, was the calamity they had to dread. The Act, however, subjected them to the one, and gave them no exemption from the other; nay, it made a change of owners more probable than before; for this plain reason, that in Demerara they might, and in the Bahamas they could not, be sold to advantage.

Every pretext then of benefit or compensation to the slaves, on which this cruel statute professed to be founded, or on the private suggestion of which it was solicited, was delusive. The real object of its promoters was the interest of the owners alone.

No man, perhaps, will be so bold as to maintain, at this day, that this true but latent principle of the Act would have been enough to justify its provisions. Yet to maintain this, would be the only way to discuss the merits of the measure fairly; as I am by no means disinclined to do. I would admit for the argument's sake, that Bahama slave owners have a real and a large interest in these cruel transports; though, that they will be long the richer by such oppression, if they continue to be the owners I am far from believing. If they buy or settle plantations in Guiana, they will ere long bury these victims of their avarice there; and will find, like former races of speculators in the same line, that sugar planting, under such circumstances at least, is a ruinous bubble. But it is undeniable, I confess, that by now selling their slaves at the high prices current in that ill-peopled and rapidly depopulating country, they may realize large sums

in exchange for that capital in human flesh and blood, which is at present an unproductive investment; and this, I am well assured, was the actual plan of some, at least, of those proprietors who solicited this Act; and who have transported, or are preparing to transport their slaves under its provisions.

Let it be assumed, therefore, that what is death, and worse than death, to the poor exile, will be great gain to their owners; and that without it the value of their property must be much reduced: and it will in the first place be clear, that while slaves are permitted to be sent from the islands to the South American continent, or from one island to another, slavery can never be permanently mitigated; and can never end. While this is permitted by law, every improvement in the poor negroes' condition will be ultimately injurious to him; because it will prepare for him a cruel revulsion on the opposite side; and the pains of transportation for life. If this be right, the abolition was wrong,—was a merciless infliction on our colonial slaves; and ought without delay to be repealed.

The former consequences will be clearly apparent, if we consider that every mitigation of slavery is an approach to freedom; that in proportion as the difference between a slave and a hired servant diminishes, the marketable value of the former must decline; and that the effect will be accelerated, by that natural increase of the slaves in a given colony, which improvements in their condition will produce. The market prices therefore of such property in different colonies will be inversely proportionate to the progress they have respectively made in the mitigation of slavery, and its gradual conversion into freedom; and a period will arrive in this progress, at which the case will be the same as is here supposed to exist in the Bahamas. The slaves will be so numerous, and so nearly free, that the masters will be able to get no price for, or profit by their property in them at all; and the only way therefore to dispose of their capital to any advantage, or to avoid a total loss, will be to transport their slaves to a colony which has not yet begun the work of humane improvement; or has at least been comparatively so backward in it, that its black population continues to decline, and the property in slaves consequently is still profitable, and still in demand. There will be a constant tendency, therefore, from self-interest, to the removal of slaves from a better situation to a worse; and the higher they are advanced in civil rights, their owners will have the stronger temptations to exercise the tremendous power of transporting them to another colony for life.

That to permit this cruel practice for the master's benefit alone, is inconsistent with the principle of the abolition, is equally plain. Justice and humanity have no geographical limits; nor is it less cruel, or less unjust, to carry men into perpetual exile from a British island, than from Africa. If the argument required it, I might affirm that, in respect of advanced civilization, and of hard-earned claims on the gratitude of Great Britain, the new outrage upon moral principle is grosser and more shameful than the old; and that the iteration of the miseries of the slave trade, upon the same injured beings whom we subjected to them once before, in the eye of humanity, aggravates the crime. We should regard with less horror the man who had murdered two fellow creatures, than the remorseless ruffian

who had taken only a single life; but by two distinct acts of murderous violence,—stabbing his victim a second time, after the first wound was healed.

The promoters of the abolition did not indeed, I admit, at first attempt to restrain this inter-colonial slave trade; but it was, because to carry their own principles into entire practical effect at once, was thought to be inconvenient and unwise. The fatal acquisition of continental slave colonies at the peace was then not apprehended; and the removal of slaves from one British island to another, was an evil not likely often or largely to occur, except immediately, or very soon after, the cessation of the African trade; a time at which it might have been thought hard on the planters to prevent their recruiting their deficient gangs from neighbouring British islands, where a surplus of slaves might be found. The islands collectively being suddenly limited to a dependency on their existing population, and its native increase, for agricultural labour, it seemed reasonable to allow some time for the distributing of that population, and for its settling down among them, in proportion to their comparative and immediate wants; or, at least, if this was to be denied to them, that exceptions and modifications should be made, not easily to be adjusted in a measure of such importance, and one likely to excite so much pertinacious opposition, as a bill for abolishing the African slave trade.

It is due to that able and liberal statesman, Lord Grenville, then the prime minister, to confess that he, with reluctance, gave way to these considerations, when represented to him by some of the most zealous promoters of the bill; his lordship having at first designed to prohibit generally the exportation and importation of slaves from or into any British colony. The inconsistency, therefore, of the practice in question with the principles of that great measure, was not overlooked; nor can the practice of removing slaves from island to island, still less that of sending them to the South American Continent, derive any countenance from the former not having been interdicted at that period. But sixteen years have since elapsed: every reason, therefore, that warranted, or seemed to warrant, the non-extension for a while of the abolition to a case clearly within its principle, has long since ceased. The transportability of slaves by the master's fiat should, therefore, now have an end, unless it is to continue for ever.

If the interest of the owners, however strong, ought thus to prevail over the rights of humanity in the slaves, the abolition is chargeable not only with defect, but excess. It went too far in prohibiting the exportation of slaves from British to foreign colonies, or to any other part of the world; for why should the owner be restrained in the choice of his market, unless for the sake of his slave? And where (I put the question with grief and shame) can the exile be sent to a slavery more rigorous and hopeless, than that of the British sugar colonies? The law prevents the Bahama master from sending his slaves to the neighbouring islands of Cuba or Porto Rico; and yet there, they would find some compensation for the pang of exile, by passing into a state which, in comparison even with their slavery in the Bahamas, is liberal and mild. Is it replied, that you could no longer spare slaves as before to the Spaniards, after the cessation to the African trade, because your own islands stood in need of such casual supplies from each other? Then you sacrificed these victims of your own repudiated crimes, not

merely to the private interest of the master, but to your own supposed national interest also ; apostatizing, in both views, from the sacred principles which you have solemnly professed, and have held forth to the imitation of the whole civilized world.

But there would be another damning comment on this plea. "Your own islands were likely to be in want of slaves; and yet you robbed your old ally to prepare insatiable drains for them in Demerara and Berbice; and now you have not scrupled to open those cruel drains by act of parliament. I absolve our French calumniators. This new parliamentary slave trade more than justifies their opprobrious imputations.

I have stated, as a further consequence of the assumed but false principle, that the abolition was a merciless infliction on our colonial slaves; and ought, without delay, to be repealed.

It was argued by the planters, that to cut off the supply from Africa, would be to aggravate the labours of the slaves already in our islands; because the same agricultural business must in future be carried on by a declining population, which they would be unable to recruit. They even alleged in their petitions that the slaves would be so much exasperated at the abolition on this account, *that insurrections would ensue*. Preposterous though this alarm, their never-failing expedient, was, there can be no doubt, that there was a real tendency in the measure to occasion hardships of that kind; and if they have not been materially felt in general, it is because the depressed state of the sugar and coffee markets, ever since the first abolition took place, has led to a reduction of the quantity of land in culture; a reduction nearly equal perhaps, in some colonies, to the loss of numbers among the slaves. The promoters of the measure looked forward to an alleviation of labour from a different counteracting cause; or they must have admitted that the relief of Africa, would be purchased at the price of no small additional sufferings to her children already in our colonies. They relied upon voluntary sacrifices of present gain on the part of the planters, for the alleviation of labour, and for all such other improvements in the treatment of their slaves as might be necessary to the essential objects of their preservation and native increase; nor would such calculations have failed, if the defeat of the Register Bill had not taken from the abolition all its future security, and consequently all its salutary influence on the minds of the planters at large.

But though the hope of these and other compensatory effects justified the promoters of the abolition, who were far from meaning to add weight to the heavy yoke of colonial bondage, it is nevertheless true, that it has become heavier in many cases, and but for the low prices of sugar would have been materially aggravated in all; and if the new system of relaxing the colonial monopoly for the planter's benefit on one side, and maintaining it at the expence of our East Indian fellow-subjects on the other, should produce the intended effect, by raising greatly the prices of West India sugar, prior to a reformation of slavery, the negroes in our colonies will soon have reason to lament that the slave trade was prohibited by law. It is here, supposed, indeed that the abolition is so far effectual as very greatly to check, (by the risks of the smugglers, and consequent high prices,) .

though, without an efficient registry, it cannot wholly prevent, the actual introduction of slaves.

It is the influence of the abolition, however, on the immediate subject of these strictures, the inter-colonial slave trade, that I had here chiefly in view. It is by the abolition that the want of slaves, and the seductive high prices given for them, have been produced in Trinidad and Guiana. If this measure had not taken place, temptations fatal to the poor negroes of the Bahamas, Dominica, and other islands, would not have arisen; or would have been too weak to overcome the feelings of humanity and mercy in their masters. I grant that the pernicious acquisition of South American colonies has been a great concurrent cause; but still, if the slave trade had continued to be legal, the slaves in our islands would have been safe. While the planters of Demerara and Berbice were under the British flag as conquered colonies, and had Guinea yards to resort to, the slaves of the Bahamas were not torn from their homes, their wives, and children, to break up new lands on that distant and sickly continent; though their masters had long ceased to cultivate cotton and sugar, and might then have transported them thither by law without soliciting Parliament to take part in the oppression.

I appeal solemnly then on behalf of these unfortunate, and the rest of the 700,000 men, women, and children now in slavery in our West Indian colonies, to the yet surviving authors and promoters of the abolition; — I call upon them not only to vindicate their own consistency, and to act up to their own principles; but to repair the mischief they have inadvertently done, by opposing themselves to this new and cruel slave trade, as resolutely as to the old.

They have copied, though in an inverted form, the fatal error of Las Casas. He, in order to save the oppressed people of America, contributed by his advice and influence to subject the poor Africans to a like, but more severe, oppression. Abolitionists, with a humanity no less improvident, have saved the African, by substituting the West Indian slave; and the sufferings they have given rise to, exceed in kind those they have suppressed. In one respect only the comparison may be said to fail. The Indians certainly profited in some degree by the benevolence, however inconsistent, of Las Casas; but whether Africans collectively have yet derived any material benefit from the abolition of the slave trade, has by some been questioned. If they have not, it is only the more incumbent on its authors to look well to its effects in the British colonies; and if their measure, impotent of good on one side of the Atlantic by foreign contravention, and on the other by that fatal colonial influence which prevents an effectual registration, is to be productive at the same time of mischievous and cruel effects to those who, of all the African race, are pre-eminently entitled to our protection, both as being British subjects and much-injured fellow creatures, victims of our own injustice, — what reason, I demand, can justify acquiescence in such effects of the abolition, that would not, as well or better, perhaps, justify a revival of the trade? I repeat, that if the injured and hapless slaves in our colonies ought to endure the miseries of new transports, when, and as often, as the master's interest requires it, the abolition act,

by giving rise to an interest so fatal, was to them a heavy grievance. Upon the same assumption, not only are the effects of the abolition bad, but its principle was wrong; and its prohibitions injurious. They were injurious even to the British planters, as well as to the slaves; for if the feelings of black men ought to be thus excruciated, and their lives destroyed, lest the purses of white men should suffer, why should the colonies, that are in want of slaves, be forbidden to import them from Africa? The Trinidad or Guiana proprietor, has as good a right to buy at the cheapest market, as the Bahamas slave owner, to sell at the dearest.

Away then, if these cruel transports are still to be licensed, — away with the cant of applause to the abolition, and abhorrence of the foreign slave trade. We inflict as much misery, we perpetrate as much injustice, in the West Indies, as France on the coast of Africa. Repeal the act that has opprobriously extended the range of such oppressions; — prohibit in future all such cruel transports of slaves from the colony in which they are settled; or blot from our statute book those abolition acts which provoke or aggravate the practice, while they are the records of our own apostacy and shame. Let us cease at least to vaunt the superiority of our national morals; and to reproach other nations with guilt which is of the same species with, and not more atrocious than, our own.

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## APPENDIX, No. IV.

*Referred to in p. 92 & 95.*

OPPOSITES though this truth may be to vulgar notions, the only difficulty in proving it is, that of selecting from a multitude of concurrent authorities such as, from their known character and their brevity, are the fittest for citation.

Mr. Bryan Edwards, the historian of the West Indies, and the best informed of all the literary champions of the sugar colonies, deserves, perhaps, the first notice; and this is his account of the circumstances of the planters in general; not in reference merely to the time of his publication, 1792, but to every period of their history. After noticing that some gentlemen of Jamaica possess ample fortunes, which he states to have been “the fruits of the toils of successive generations,” he adds, “many there are who have competencies that enable them to live with economy in this country; but the great mass, are men of oppressed fortunes, consigned by debt to unremitting drudgery in the colonies, with a hope which eternally mocks their grasp of happier days, and a release from their embarrassments.”\*

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\* History of the West Indies, vol ii. book vi. chapter v.

The late Mr. Tobin also, a very able and eminent apologist of slavery, deserves to be cited. "For one planter that lives at his ease in Great Britain, there are fifty toiling under a load of debt in the colonies." \*

But it is needless to adduce any more private authorities for these general characteristics of the sugar colonies, when the testimony of their own assemblies, and facts publicly attested by them, are decisive to the same effect.

"In the course of twenty years, one hundred and seventy-seven estates in Jamaica have been sold for the payment of debts; fifty-five estates have been thrown up; and ninety-two are still in the hands of creditors: and it appears from a return made by the Provost Marshal, that 80,021 executions, amounting to 22,563,786*l.* sterling, have been lodged in his office in the course of twenty years" †

If such was the case from 1772 to 1792, the reader will not be surprised at the following representation from the same honourable body in 1804, a period of low prices:

"Every British merchant holding securities on real estates is filing bills in Chancery to foreclose; although when he has obtained a decree, he hesitates to enforce it, because he must himself become the proprietor of the plantation, of which, from fatal experience, he knows the consequences. No one will advance money to relieve those whose debts approach half the value of their property; nor even lend a moderate sum without a judgment in ejection and release of errors, that, at a moment's notice, he may take out a writ of possession, and enter on the plantation of his unfortunate debtor. Sheriff's officers, and collectors of taxes, are every where offering for sale the property of individuals who have seen better days, and now must view their effects purchased for half their real value, and at less than half the original cost. Far from having the reversion expected, the creditor is often not satisfied. All kind of credit is at an end. If litigation in the courts of common law has diminished, it is not from increased ability to perform contracts, but from confidence having ceased, and no man parting with property, but for an immediate payment of the consideration. A faithful detail would have the appearance of a frightful caricature." ‡

This picture, be it observed, was drawn at the distance only of about three years from the most prosperous times the sugar colonies ever knew.

In 1807, the same Assembly says, "The house will be able to judge to what an alarming extent the distresses of the sugar planters have already reached, and with what accelerated rapidity they are now increasing, for the sugar estates lately thrown up, brought to sale, and now in the Court of

\* Cursory Remarks on Mr. Ramsay's Essay on the Treatment and Conversion of Negro Slaves, p. 32. The work of Mr. Ramsay was first published in 1784, and this reply was first published, I believe, in 1785 or 1786, and was widely circulated by the colonial party.

† Report of a committee of the House of Assembly of Jamaica on the sugar trade and slave trade, confirmed and printed by order of the House, Nov. 23d, 1792.

‡ Report of a committee of the House of Assembly of Jamaica, dated November 23d, 1804, presented to and printed by order of the House of Commons, 25th February, 1805.

*"Chancery in this island and in England, amount to about one-fourth of the whole number in the colony.*

" Your committee have to lament the ruin that has already taken place ; and must, under a continuance of the present circumstances, anticipate very shortly the bankruptcy of a much larger part of the community, and in the course of a few years that of the whole class of sugar planters ; excepting, perhaps, a very few who, from peculiar circumstances, have been able to place sums of money in reserve."\*

The reports from which these latter extracts are taken, and the other parliamentary papers of 1807 and 1808, relative to the distress of the sugar colonies, would furnish a large volume of evidence to a like effect.

Further aggravation seems scarcely possible ; but three or four years later, the Assembly of Jamaica, in a Petition to his Majesty, then Prince Regent, dated December 10, 1811, sounded the same, if not a deeper strain of despondency, " *estate after estate has passed into the hands of mortgagees and creditors, absent from the island, until there are large districts, whole parishes, in which there is not a single proprietor of a sugar plantation resident.*"

The non-residence of proprietors in the West Indies is certainly no proof of their distress ; but the meaning here apparently is, that merchants resident in Europe, the ordinary mortgagees of the sugar planters, had now become the proprietors, by foreclosures, or by purchase of the equities of redemption at marshall's sales, or under decrees in Chancery.

After considering these successive statements from the highest colonial authority, the reader will probably not be disposed to think the language of an eminent colonial agent, Mr. Marryat, in the debate on the East India sugar duties in 1813, too strong for probability, when he stated, according to newspaper reports of that debate, " *that there were few estates in the West Indies*" (he meant of course few in comparison with the whole number) " *that had not during the last twenty years been sold or given up to creditors.*"

If the ten years that have elapsed since that statement were added to the account, the number in a comparative view would probably be very few indeed. In fact, the same might be truly affirmed of property in these fields of ruinous enterprize, or to speak more descriptively, the stakes at these gaming tables, in reference to any twenty or thirty years of their history ; and the distresses represented to parliament at different periods, including the present, have been, and are nothing more than paroxysms of a chonical disease, inherent to the constitution of sugar colonies cultivated by slaves. Mr. Marryat's period of twenty years begins with 1793, comprising, as we have seen, seven years of unexampled prosperity ; that of the first Jamaica Report which I have cited, reaches back to 1772. We have therefore, reckoning to this time, a period of more than half a century, during which failure, distress, and ruin are attested to have been the ordinary lot of sugar planters in the British colonies.

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\* Another report of the same Assembly of November 13th, 1807, presented to the House of Commons, and printed by order of 19th April, 1808. Appendix A. to the report of the committee on the distillation of sugar, &c.

The journals of parliament contain, if my memory is correct, evidence of the same morbid habit having existed a century at least; and I believe that from the first acquisition of our oldest sugar islands, the planters of that valuable commodity have been periodically complaining of their urgent wants and distresses; nor without truth, and often describing a case of indigence and ruin, differing only in degree, if at all, from that which at present exists.

I might proceed to prove from known and acknowledged facts, that such consequences of the existing system are unavoidable, and that the losses and failures which they produce in this country, are of a most enormous extent, and have tended more than all other causes to deteriorate the general character of British commerce, and to entail ruin upon families out of trade, as well as individual merchants. But these evils will be better understood when I shall have given, in the remaining division of my work, statistical views of the West Indies. My immediate object here is only to shew in a general way, the frequency of those embarrassments of the planters, by which, it is admitted that under the present state of the law, the slave unavoidably suffer; and I see not how it can be doubted upon the evidence here cited, that a large proportion of the slaves in our sugar colonies must have long been subjected to those cruel and destructive hardships, which are the acknowledged consequences of a master's poverty and ruin?

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## APPENDIX, No. V.

I PROMISED another article in this Appendix, relative to the *driving method* (see p. 53. note). The following is the extract there referred to.

"When employed in the labour of the field, as, for example, in *hoeing a cane piece*, i. e. in turning up the ground with hoes into parallel trenches, for the reception of the cane plants, the slaves, of both sexes, from twenty, perhaps, to fourscore in number, are drawn out in a line, like troops on a parade, each with a hoe in his hand, and close to them in the rear is stationed, a driver, or several drivers, in number duly proportioned to that of the gang. Each of these drivers, who are always the most active and vigorous negroes on the estate, has in his hand, or coiled round his neck, from which by extending the handle, it can be disengaged in a moment, a long, thick, and strongly plaited whip, called a *cart whip*; the report of which is as loud, and the lash as severe, as those of the whips in common use with our waggoners, and which he has authority to apply at the instant when his eye perceives an occasion, without any previous warning. Thus disposed, their work begins, and continues without interruption, for a certain number of hours, during which, at the peril of the drivers, an adequate portion of land must be hoed.

“ As the trenches, are generally rectilinear, and the whole line of hollers advance together, it is necessary that every hole or section of the trench should be finished in equal time with the rest; and if any one, or more negroes, were allowed to throw in the hoe with less rapidity or energy than their companions, in other parts of the line, it is obvious that the work of the latter must be suspended; or else, such part of the trench as is passed over by the former, will be more imperfectly formed than the rest. It is, therefore, the business of the drivers, not only to urge forward the whole gang with sufficient speed, but sedulously to watch that all in the line, whether male or female, old or young, strong or feeble, work as nearly as possible in equal time, and with equal effect. The tardy stroke must be quickened, and the languid invigorated; and the whole line made to *dress*, in the military phrase, as it advances. No breathing time, no resting on the hoe, no pause of languor, to be repaid by brisker exertion on return to work, can be allowed to individuals. All must work, or pause together.

“ I have taken this species of work as the strongest example. But other labours of the plantation are conducted upon the same principle, and, as nearly as may be practicable, in the same manner.

“ When the nature of the work does not admit of the slaves being drawn up in a line abreast, they are disposed, when the *measure* is feasible, in some other regular order, for the facility of the drivers’ superintendance and coercion. In carrying the canes, for instance, from the field to the mill, they are marched in files, each with a bundle on his head, and with the driver in the rear: his voice quickens their pace, and his whip, when necessary, urges on those who attempt to deviate or loiter in their march.

“ Some parts, indeed, of the work of a plantation can only be done by the slaves in a state of dispersion, such as plucking the grass blade by blade in the ranges, or hedge rows, or on the mountains, for the pro-vender of the horses and cattle. It is obvious that, in such cases, the immediate coercion of the driver cannot be applied, recourse is therefore had to the mode of individual task-work. Each slave, for example, is obliged to produce and deliver to the driver or overseer, within a limited time, a bundle of grass of a certain magnitude, on pain of immediate punishment by the cart whip, on his return from the field; and to quicken exertion at this task, the time allowed for it is a part of the respite from more regular work, given to the slave, both for this purpose, and for preparing and eating his meal; so that if he wastes time in grass hunting, he loses in the same proportion the comfort of his dinner, or perhaps the dinner itself, from want of time to prepare it. Yet so inadequate are these seemingly powerful expedients to supply *with men used to be driven*, the presence of the driver, that the bundles of grass are rarely brought in by all the slaves in due time, and of sufficient magnitude; and it has been observed, of this part of their work, in the English islands, that the neglect of it occasions more punishment than all the rest of their trespasses put together.

“ With these, and other necessary exceptions of solitary work, such as that performed by sugar boilers, and certain artificers, the compulsion of labour by the physical impulse, or present terror of the whip, is

universal; and it would be as extraordinary a sight in a West India Island to see a line, or file of negroes, without a driver behind them, as it would be in England to meet a team of horses on a turnpike road without a carman or waggoner."

Such was the description of this odious and pernicious method of inflicting labour, which I gave two and twenty years ago, in the pamphlet, called the "*Crisis of the Sugar Colonies*," (p. 9 to 13.) I have some reason to believe, that it made a pretty strong impression on some minds, whose power and influence might have then sufficed for the effectual controul of such oppression. But its effect was taken off, by the bold contradiction given to the statement in point of fact. Not only in those private confidential communications on these subjects, by which colonists of rank and consequence in this country probably pervert the views of statesmen, to whose friendship and intimacy they are admitted, but also in parliamentary debate, it was alleged, that no such practice in fact existed. Men, whose characters would have intituled them justly to credit in other cases, were credulously listened to in this, though some of them spoke merely from the information of other proprietors, never having themselves resided in the West Indies, and all had a direct interest in denying or explaining away the most offensive parts of a system in which they were engaged. Most of them, indeed, thought it too strong to deny, what every man, who was ever on shore in the West Indies has seen, the presence of drivers armed with whips, in the rear of every working gang; but the ingenious expedient was to suggest that these whips were merely the *ensigns of office*, and were in fact never used.

Grossly improbable though this representation was, it actually gained credit from its extreme boldness, even with some friends of the abolition, so that I thought it necessary to search for, and soon found evidence enough, even from the testimony of the colonists themselves, to prove that the drivers do indeed drive, and that their whips are by no means idle. I have many extracts for that purpose, prepared for the second division of this work, which shall be published in it, if necessary. But I will not further delay and enlarge the present volume, to which they do not so properly belong, by printing them here. Indeed, if any impartial reader remains unsatisfied, after attending to the extract from Dr. Collins's work, which I have given in page 53, I may reasonably despair of convincing him by any means short of ocular demonstration.

There are too many, who, in this unprecedented controversy, reverse all ordinary rules of judgment upon conflicting evidence; lending credit to every witness who has an obvious interest in misleading them, and rejecting the testimony of all those who are exempt from that objection. The advocates of the poor slaves, of whatever religious faith, or however little liable to the charge of zeal for Christianity, in any of its forms, are all fanatics and enthusiasts; and they are supposed to add to enthusiasm, what has not commonly, I think, been supposed one of its characteristics, a propensity to wilful falsehood, and even in regard to the very facts, by their belief, of which their zeal is apparently kindled. But are the planters also, enthusiastically given to belie themselves, and their own

system, and to confirm the false charges of their fanatical opponents? If not, how will they dispose of such testimony as that of Dr. Collins?

Having mentioned this work again, let me correct, as I am happy to be enabled to do, by the information of a friend, received since the body of my work was out of press, an error, into which I had fallen, in p. 432. I am glad to hear that his "PRACTICAL RULES" are not out of print, but may still be obtained from the booksellers; and it is due to a highly respectable Jamaica proprietor, Mr. George Hibbert, to add, that I am further informed, he is so far from being chargeable with a neglect of that valuable work, that it is to him that we are indebted for a new edition of it. If the fact is not so, I hope his forgiveness; for I mention it as one that does honor to his humane and liberal feelings.

THE END.

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